United Nations E/2015/SR.27

# Economic and Social Council

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**Special high-level meeting with the World Bank, the International Monetary Fund, the World Trade Organization and the United Nations Conference on Trade and Development**

**Summary record of the 27th meeting**
Held at Headquarters, New York, on Tuesday, 21 April 2015, at 10 a.m.

*President*: Mr. Sajdik ..... (Austria)

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*Closure of the special high-level meeting*

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15-06225 (E)

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*The meeting was called to order at 10.10 a.m.*

**Coherence, coordination and cooperation in the context of financing for sustainable development and the post-2015 development agenda** (*continued*)

*Presentation on theme 1: "World economic situation and prospects"*

1. **Mr. Helbling** (Chief, World Economic Studies Division, International Monetary Fund (IMF)), introducing the 2015 World Economic Outlook, entitled "Uneven Growth: Short- and Long-term Factors", said that the global growth forecast of 3.5 per cent for 2015 and 3.8 per cent for 2016 was low, given the unused economic capacity in many countries. The outlook for advanced economies was improving after many years of slow growth, but 2015 would be difficult for emerging market and developing economies because of falling oil and commodity prices and country-specific developments.

2. In the short term, the fall in oil prices would benefit importers and the global economy but would reduce trade and income for exporters. The appreciation of the dollar and the depreciation of the euro and the yen would help the euro area and Japan but hinder growth in dollar economies. While the overall effect of that exchange rate realignment was positive, it generated risks to global rebalancing.

3. The forces affecting the long-term outlook, particularly in the euro area, included the weak banks and high debt resulting from the global economic and financial crisis, which would impede growth and cause deleveraging and sluggish dynamics for some time. Potential growth in advanced and emerging market economies would be affected by the slowing of growth in labour supply and trend employment. The rate at which emerging market and developing economies were converging with advanced economies would also decrease.

4. Lower oil prices reflected not only the increase in supply but also the fall in demand in the weak global economy. Their overall positive effect was therefore small and confined to advanced economies, where end users benefited from the lower prices. In emerging market and developing economies, oil prices for such users were managed by Government, which would benefit from the windfall. Such economies, which had faced difficulties on international capital markets, low capital inflows, low growth and deteriorating fiscal positions, should use that gain to shore up their fiscal and external positions rather than to manage vulnerabilities.

5. The extent to which the decline in oil prices would reduce growth in exporting countries would depend on the financial reserves accumulated by Governments. In Middle Eastern exporting countries, the lower revenues would result, not in reduced government expenditure, but in larger budget deficits and a reduction in external assets. In the Russian and Venezuelan economies, activity would decrease in 2015 but would subsequently recover as investors responded to the lower prices following at a least a partial unwinding of the supply shock. The oil price decline had resulted in the transfer of downside risk from importing countries, whose financial positions would become stronger, to exporting countries, which would face higher risk spreads, less favourable international financial conditions and possible currency devaluation.

6. Although non-fuel commodities had lost value in 2014 as a result of the weak global economy, the decline had been less severe than in the case of oil. Trade in such commodities would stabilize in 2015 and 2016, although the income lost over the preceding three years would not be recovered by exporting countries.

7. Many of the conditions that had resulted in the exchange rate realignment had been in place for some time, including higher growth in the United States than in Europe and Japan, large divergences in monetary policy and the fall in oil prices, but the effects of those conditions had not been felt until the second half of 2014. The realignment had mainly affected the major advanced economies and would broadly be beneficial, in particular in the euro area, where monetary policy had previously been constrained, growth sluggish and the effects of the crisis ongoing. In the United States, the appreciation of the dollar would impede growth but would not stop the recovery. The realignment had not affected exchange rates in emerging market and developing economies but could lead to currency mismatches, in particular in countries whose monetary policy was pegged to the dollar but which received much of their foreign exchange revenue in other currencies.

8. The appreciation of the dollar had resulted in the tightening of monetary conditions in the United States,

which would continue at a slower pace in 2015 as unemployment levels converged with the long-term unemployment rate. Such tightening represented a significant change on international financial markets, which had been accustomed to slow growth and accommodating monetary conditions in advanced economies. Tightening in advanced economies could affect financial conditions in emerging market and developing economies, which had become net importers of capital and had not experienced the financial easing from which advanced economies had benefited.

9. Higher growth would be supported in advanced economies by accommodating monetary policy, moderate fiscal consolidation and exchange rate realignment. Although the picture in emerging market and developing countries was more mixed, those countries would be helped by stronger demand from advanced economies, favourable financial conditions, the lifting of certain structural impediments to growth, and recovery in economies affected by geopolitical tension and domestic strife, particularly in 2016.

10. Growth in advanced economies would exceed 2 per cent in 2015 and 2016. It would be lower in emerging market and developing economies in 2015 but would recover in 2016 because of improving conditions. Brazil and the Russian Federation would face difficulties in 2015, but in low-income developing countries, growth would be 5.5 per cent in 2015, rising to 6 per cent in 2016 as oil prices recovered.

11. The strong growth in emerging market and developing economies in the latter part of the last decade was now perceived as a cyclical rather than a permanent improvement, and the longer-term trend was now reappearing. The medium-term prospects for sub-Saharan Africa and the least developed countries were improving steadily because of better policy frameworks, the removal of structural impediments to growth, infrastructure investment and human capital development. The decline in commodity prices, however, would result in new policy challenges.

12. The anticipated management of the slowing of the Chinese economy by the Government would reduce the risk of sharp corrections in the long term but would do little in the short term to boost the prices of commodities produced in emerging market and developing economies. The strong Chinese recovery from the economic and financial crisis, based on policy stimulus, rapid credit growth and investment, had proved unsustainable and could result in vulnerability and a more pronounced slowdown than expected.

13. The demographics of major emerging market economies, which had previously been an asset, could become a hindrance, particularly in China, where trend employment would make only a small contribution. The strong growth of such economies had been based on labour force growth and capital accumulation rather than productivity growth, which should be encouraged through the removal of structural impediments and the adoption of policies that fostered human capital accumulation and the transfer of technology and knowledge.

14. The improvements in advanced economies had resulted in a more balanced distribution of risks to global growth, which would be stimulated by the fall in oil prices. The Fund, however, was concerned about the turmoil on the financial markets, in particular the prevalence of low term premiums on international bonds, which could result in violent adjustments. Stagnation was also a risk in the euro area and Japan, owing to the effects of demographics, the crisis and debt. Geopolitical risks persisted in many areas.

15. In emerging market and developing economies, which relied on capital inflows, as well as in oil importing countries, vulnerabilities should be addressed through economic policy. Exporting countries should take fiscal measures to adjust public spending to lower oil prices and allow for exchange rate adjustments. All economies should take the opportunity provided by lower oil prices to reform energy subsidies and taxes.

16. **Ms. Mejía Vélez** (Colombia) said that the outlook left some room for optimism, but her Government did not expect low oil prices to be a purely short-term phenomenon. Many emerging market economies in Latin America, which had been driving sustainable growth, depended on oil. Bearing in mind that the scenario was very different from that in which the Monterrey Consensus of the International Conference on Financing for Development had been drafted in 2002, she asked what substantive commitments and implementing measures could be designed to avoid a crisis.

17. **Mr. Kostzer** (World Bank) requested further information regarding the causes of the economic

slowdown in China and the risks it generated for commodities.

18. **Ms. Castro Mazariegos** (Guatemala) said that changes in the global energy matrix and the costs of fracking meant that oil prices might remain low in the long term. Given that commodity prices were increasingly linked to those of fossil fuels, the fall in oil prices could result in a fall in commodity prices and slow growth in Latin America and Africa for at least a decade.

19. **Mr. Drobnjak** (Croatia) requested further information regarding the medium-term prospects in terms of currency fluctuations and exchange rates and their potential impact on economic recovery.

20. **The President** asked how long the legacies of the financial and economic crisis would last.

21. **Mr. Helbling** (Chief, World Economic Studies Division, International Monetary Fund) said that although the development of a system that provided for official financing was a political challenge, the important role played by capital market financing in financing for development meant that capital flows to emerging market and developing countries had remained relatively strong. Capital market financing was no longer focused on major emerging markets but had spread to frontier economies with flows of direct foreign investment. Although the volatility of private capital flows had resulted in challenges, many economies had improved their management of such flows. While the financial and economic crisis had brought difficulties in advanced economies, conditions in emerging market and developing economies were better than had been expected on the basis of the experience of the late 1970s and early 1980s and were expected to improve.

22. Although the slowdown in China had been expected because it had been induced through government policy, vulnerabilities on such a large scale generated risks for the global economy. The fall in oil prices, however, had resulted not from the slowdown in China but from unexpectedly high costs and demand. It was difficult to forecast the level at which oil prices would settle, but some of the adjustments expected after the high prices of the previous decade were now being made. On the demand side, energy efficiency was increasing, while, on the supply side, high prices had fostered the emergence of new technologies and markets. Short-term oversupply had caused oil prices to fall more than expected; the long-run marginal cost had remained above $60 per barrel. Oil prices had remained above the long-run marginal cost estimates because of production decreases resulting from geopolitical factors and sanctions.

23. Since oil costs were a factor in the prices of other commodities, falling oil prices could increase revenue for the suppliers of such commodities. For example, suppliers had responded to high industrial metal prices by building production capacity. Iron ore production had doubled in the previous decade despite the expected slow growth in steel production and residential investment in major markets. Commodity booms must not be allowed to impede economic diversification or result in a boom in demand that would raise prices in non-tradable sectors and jeopardize tradable sectors. Although lower commodity prices offered a solution to such problems, they adversely affected growth.

24. Currency fluctuations could generate another dollar cycle characterized by continuing adjustments in currency markets. Although the current dollar cycle was modest compared with the appreciation of the early 1980s, further currency realignments were possible given the uneven growth of the major economies. Without major policy changes, crisis legacies would disappear slowly. Growth in the major advanced economies affected by such legacies would remain modest for the next five years.

25. **The President** asked whether the yuan would continue to appreciate with the dollar.

26. **Mr. Helbling** (Chief, World Economic Studies Division, International Monetary Fund) said that the anchoring of the yuan to the dollar had become problematic because so many Chinese goods and services were exported outside the dollar zone. The dollar debt incurred by China in recent years could also result in policy conflicts.

*Thematic debate on theme 4: "Follow-up and the way forward: enhancing the role of the Economic and Social Council"*

27. **Ms. Mejía Vélez** (Colombia), panellist, said that the discussions on the post-2015 development agenda presented a unique opportunity for the United Nations development system to forge a shared vision of the future the world wanted. A transformative sustainable development agenda called for an adaptation of the

system as a whole. The means of implementing that agenda would be a central component of the follow-up and review process. The Council, which served as the nucleus for providing intergovernmental direction on progress made by the system in the context of the post-2015 agenda, would have a key role to play in the follow-up of the third International Conference on Financing for Development, considering its close relationship with international financial institutions and its experience in following up on the commitments derived from the Monterrey Consensus on Financing for Development and the Doha Declaration on Financing for Development.

28. The new follow-up and review architecture might be based on a review conducted by the high-level political forum convened under the auspices of the Council. Further development of the follow-up and review architecture would be largely determined by the outcomes of the meeting of the high-level political forum to be held in July 2015. Any new review mechanisms must be based primarily on the experience drawn from the voluntary national presentations made during the annual ministerial review process. The entities of the Council, including its organizational committees and subsidiary bodies, would be crucial in offering technical, normative and other inputs for effective follow-up. The Council had the necessary tools, including the integration segment, the Development Cooperation Forum, the operational activities segment and the quadrennial comprehensive policy review, to support the follow-up and review of the post-2015 agenda and to foster integration.

29. It was important for the Council to strengthen cooperation and coordination throughout the system, at both the inter-agency and the intergovernmental levels. To perform its role as the platform for providing guidance to the system as a whole, the Council must stress and encourage effective normative and operational links in the work of the United Nations system. The operational activities segment and the quadrennial comprehensive policy review process provided the linkage between the operational and normative aspects of the United Nations development system. The review process for 2016 would enable the General Assembly to consider progress made, assess emerging challenges and provide more strategic direction on the operational activities of the United Nations.

30. The Council was currently engaged in a dialogue with Member States and other stakeholders on the long-term positioning of the United Nations development system. The dialogue would cover the linkages between functional alignments, financing practices, governance structures, capacities and impacts of the United Nations development system, and associations and other organizational arrangements in the context of the post-2015 development agenda.

31. The Development Cooperation Forum was the appropriate platform for the review of trends and advances in international cooperation for development and its effectiveness in achieving internationally agreed goals. In that regard, it could become an appropriate platform for mutual accountability at the global level and for discussing topics related to the effectiveness of development assistance.

32. **Mr. Oh** Joon (Republic of Korea), panellist, said that sustainable development would be at the centre of the Council's deliberations in 2015, ahead of the third International Conference on Financing for Development, and especially the adoption of the post-2015 development agenda in September 2015. Continuous economic growth and job creation were essential for mobilizing development resources. However, at a time when important agreements on development would be reached, while the world economy still faced many pressing challenges, the United Nations in general and the Council in particular would have to deliver tangible results.

33. Three key words would be crucial to the process of strengthening the role of the Council: integration, implementation and interaction. The Council was mandated to promote the integration of the economic, social and environmental dimensions of sustainable development in the United Nations system and beyond. To fulfil that mandate, it had established the integration segment in 2014 as an integral part of its substantive session. The Council had been empowered to convene a broad spectrum of policymakers and stakeholders, taking a holistic approach to social, economic and environmental affairs. Efforts made to promote integration during the transition from the Millennium Development Goals to the sustainable development goals would serve to make the Council fit for purpose in carrying out the post-2015 development agenda.

34. In addition to following up on the implementation of the recommendations of past world summits and

conferences, the Council would also play a central role in the implementation of the post-2015 development agenda. Active engagement, strong alignment of interests and policies, and accountability would be crucial moving forward. At its upcoming session, to be held in May 2015, the high-level political forum convened under the auspices of the Council would take stock of the regular reviews it had conducted on the follow-up and implementation of the post-2015 development commitments.

35. The Development Cooperation Forum, one of the principal new components of a strengthened Council, was a biennial high-level meeting mandated by the 2005 World Summit on Sustainable Development to review trends in international development cooperation and to promote greater coherence among the development activities of different partners. The central role of the Forum in the monitoring, review and follow-up processes should be maximized to provide a platform of mutual accountability. It was generally agreed that the transformative and ambitious post-2015 development agenda could only be achieved with a genuine partnership and a thorough review and follow-up process. In that connection, providing a reliable framework of accountability would be both a challenge and an opportunity for the Council.

36. With regard to interaction, the Council had been mandated to serve as a platform for the coordination of global, regional and national development activities, and to link together individual follow-up and review processes with a view to optimizing mutual reinforcement across the development system as a whole. The strength of the Council lay in its partnership with its subsidiary bodies and with various institutions and stakeholders, and in its ability to connect the new development agenda with the operations of the United Nations development system and financing for development. As such, the regular exchanges and annual special high-level meetings it held with the World Bank, the International Monetary Fund, the World Trade Organization and the United Nations Conference on Trade and Development would continue to be very useful for all parties involved.

37. Lastly, the Council should also serve as a solid platform for sharing expertise and values, bringing together different stakeholders, and setting shared objectives for the future the world wanted. With the global development landscape continuously evolving, efforts to strengthen coherence, coordination and cooperation among different development actors were crucial. The Council stood ready to take on the challenges that lay ahead. He hoped that the Council would be supported in its efforts to bring together all development actors for the achievement of the sustainable development goals and the successful implementation of the post-2015 development agenda.

*Interactive dialogue*

38. **Mr. Egli** (Switzerland) said that an ambitious post-2015 agenda for sustainable development must be accompanied by an effective review process. A key question was how a global partnership on sustainable development could be promoted in the context of the follow-up to the financing for development process and the post-2015 development agenda. Follow-up and review mechanisms would enable the world to understand the workings of the process in a manner that allowed for adjustments to be made. They would also allow States to learn from the experience of others and help to determine whether all States were individually and collectively on track to meet their objectives. Global and national reviews would be needed, because events in one part of the world had an impact on other parts of the world.

39. His delegation considered the financing for development process an integral part of the overall post-2015 sustainable development agenda. The follow-up process of the outcome of the Addis Ababa conference should also be an integral part of the global post-2015 monitoring and review mechanism. The high-level political forum should serve as the central locus for various sectorial monitoring and review processes, including the follow-up process on financing for sustainable development. To make that happen, the institutions responsible for follow-up and review with regards to the post-2015 agenda should be strengthened and the requisite processes streamlined.

40. More reflection was needed on the role of existing financing for development follow-up meetings and events in the context of the General Assembly, the Council and the United Nations system as a whole. The increasingly diverse range of actors involved in financing for sustainable development called for an innovative architecture. The follow-up process should provide for the participation of all relevant actors, including the major institutional stakeholders, multilateral development banks, the Organization for

Economic Cooperation and Development, civil society and the private sector.

41. Lastly, in order to strengthen the United Nations institutional framework for sustainable development, the high-level political forum and the Council should complement each other, according to their respective comparative advantages. The Council and its subsidiary bodies and the development organizations of the United Nations system should serve as knowledge hubs for all information on each actor's contribution to the implementation of the post-2015 sustainable development agenda. National reviews on progress in the implementation of that agenda should also be conducted under the auspices of the high-level political forum.

42. **Ms. Simonyan** (Observer for Armenia) said that the high-level political forum was well positioned to provide a solid platform for a unique international accountability mechanism, but that other instruments that were available or that could be made available to the Council should be considered, given the voluntary nature of the review mechanism and the principle of differentiation that would most probably be incorporated into it. It might be useful, for example, to provide incentives for countries to show greater commitment to the reporting process, and to consider the role of non-State actors in it.

43. Technical expertise and the interplay between the overall accountability framework and the various United Nations agencies and bodies involved in the implementation of the post-2015 agenda would also have practical implications for the follow-up and review process. National statistical agencies had a central role to play in the monitoring process, yet the recent exercise conducted by the Statistical Commission on the preliminary assessment of the indicators revealed a gap in the capacities of Member States to provide input. It would be helpful for Member States to hold preparatory discussions ahead of the upcoming intergovernmental negotiations on the post-2015 follow-up and review mechanism, in order to have a better understanding of the results that could be expected from those processes, without prejudging the outcomes of future deliberations.

44. **Mr. Mohieldin** (World Bank) said that it was important to determine whether the world was comfortable with the evidence-based approach for monitoring and evaluating the proposed sustainable development goals, their associated targets and indicators, considering that some of them were very complicated and not easy to quantify. It was also important to determine the accountability frameworks for the implementation of those goals. The World Bank, for example, had developed its country partnership frameworks and country diagnostics to help it understand what was happening at the country level, and intended to ultimately incorporate the sustainable development goals into those frameworks. It had acquired a great deal of experience monitoring how the world was implementing the policies and actions for achieving the Millennium Development Goals and related development outcomes.

45. The Global Monitoring reports, produced jointly with the International Monetary Fund, were a framework for accountability in global development policy. Accountability at the national level was, however, more complicated. There had been suggestions that the listing approach should be adopted, whereby countries would be publicly shamed for failing to achieve the goals, but it was generally felt that such an approach would be counter-productive. With regard to the time frame, regular annual updates and reviews would be very useful for monitoring the goals.

46. **Ms. De Guindos Talavera** (World Bank) said that there was general agreement as to the need to mobilize public and private financing for monitoring the implementation of the post-2015 development agenda, but that the real challenge was to determine how to use the available resources more efficiently. A stronger tax system was needed to curb illicit financial flows, combat tax evasion and allow Governments to collect enough revenues that could be partly allocated to the development portfolio. Resources were also being lost through the lack of competition in the markets. The economies in many developing countries, especially in the low-income countries, were dominated by monopolies that determined the prices of goods and services and generally produced goods and services of low quality. In the middle-income and developed economies, where oligopolies and cartels held sway, they had access to almost all the resources and determined the prices of goods and services, to the detriment of consumers. Strong anti-trust authorities were therefore needed in all countries, along with a global dialogue to address all issues related to the post-

2015 agenda. As the global forum for such discussions, the Council had a vital role to play in that regard.

47. **Ms. Santala** (World Bank) said that monitoring and implementation of the outcome of the third International Conference on Financing for Development should be action-oriented, focused and interactive. At the same time, increased bureaucracy and a proliferation of processes should be avoided.

48. **Ms. Reyes** (Observer for Equidad de Género: Ciudadanía, Trabajo y Familia, A.C.) said that a strong follow-up mechanism would be needed to keep track of the fulfilment of the commitments made at that Conference, without which those discussions would not progress beyond rhetoric. The existing annual dialogues between the Council and the Bretton Woods institutions were not sufficient to monitor the outcome of the Conference or to propose new action-oriented initiatives. She therefore called for the establishment of a permanent intergovernmental space, which could be called a "financing for development commission", for example, to keep track of the financing for development modalities and to lay the groundwork for an accountability process at the national and international levels. Effective and meaningful participation by civil society in the process should also be mainstreamed into the governance mechanism to ensure its transparency. An inter-agency task force, as proposed in the zero draft of the outcome document of the third International Conference on Financing for Development, to report annually on progress, was a good opportunity to develop further the linkages between the different platforms related to the full implementation of the financing for development outcomes.

49. **Ms. Hanfstängl** (Observer for Bread for the World) said that in order to have a positive impact, advance coherence and contribute to the strengthening of the Council, the meetings between the United Nations and the Bretton Woods institutions should be more focused and outcome-oriented, and include round-table discussions with a smaller number of participants, rather than just plenary sessions where delegates simply had to listen to statements. That formula had been adopted successfully in the past, even though the range of issues discussed was still too broad. There should also be more focused debates on specific issues identified through the financing for development outcome and follow-up process. If the meetings were more outcome-oriented, their conclusions could then be submitted to the relevant bodies, such as the International Monetary Fund, the World Trade Organization or the General Assembly, for further action. Working groups could deliberate to prepare positions ahead of the meetings, and a financing for development commission could be established to prepare for specific results. Meetings could also be held ahead of the spring meetings of the Bretton Woods institutions to present the views of United Nations development processes for their consideration. That approach had been adopted in the past and could be adopted again.

50. **Mr. Kohonen** (Observer for Christian Aid), speaking on behalf of the broader civil coalition working on financing for development, said that financing for development was the first building block of a series of ambitious efforts to make the global economic, social and environmental governance systems more equitable and based on human rights frameworks. The current meeting was a testament to the commitments made at the first financing for development conference, held in Monterrey, Mexico. However, it should adapt to the new realities of the development landscape. In that regard, his organization proposed the establishment of a permanent financing for development commission at the heart of a permanent follow-up mechanism.

51. It was imperative to remind the world of the values and principles of the proposed global partnership for development, which would be based on the principles of universality, differentiation and responsibility as key principles concerning the centrality of the role of States as duty bearers within a rights-based framework. Although multi-stakeholder and interactive dialogues within working groups and follow-up structures might serve as a space for inclusiveness and new and innovative policy solutions, States should still fulfil their duties of tackling inequality, providing decent jobs, achieving gender equality and protecting the environment. Concrete principles should be developed to govern ex-ante assessments, without which the impact of public-private financing arrangements could end up causing more harm than good. They could lead to blending and leveraging, and even give rise to unsustainable debt burdens or contingent liabilities.

52. Similarly, it was important to develop principles for the assessment of illicit financial flows, which currently lacked an official definition and follow-up

mechanism with clear targets. His organization welcomed the idea of gradually addressing illicit financial flows through public, country-by-country reporting with the automatic exchange of corporate tax information, as proposed in the zero draft of the outcome document of the third International Conference on Financing for Development. Nonetheless, clear timelines for reducing such flows should be built into the proposed financing for development follow-up process within the United Nations.

53. **Mr. Oh** Joon (Republic of Korea) said that it was normal for most comments to have been focused on the implementation of the outcome of the financing for development process and the sustainable development goals, since there seemed to be no doubt that an agreement would be reached in 2015 on those two issues. It was true that the review processes still required fine-tuning. The indicators for the sustainable development goals must be developed as soon as possible, to ensure the validity of the evidence-based approach for the monitoring exercise. He agreed that accountability at the national, regional and global levels was also important, and that one option for monitoring the implementation of the new development agenda could be to set up a peer-review process involving all countries, similar to the periodic review process concerning human rights. Nonetheless, that option required further discussion.

54. With regard to the strengthening of the dialogue between the Council and the Bretton Woods institutions, he agreed that small round tables were a good idea in order to make the dialogue more outcome-oriented, more concrete and more interactive. Lastly, the upcoming meeting of the high-level political forum in July 2015 would be vitally important because it would be the last meeting held before the adoption of the new development agenda in September 2015.

55. **Ms. Mejía Vélez** (Colombia) said that monitoring and implementation of the post-2015 development agenda was of utmost importance and would be the focus of the intergovernmental meeting process that would take place in July 2015. The forum for monitoring the implementation of the outcome of the third International Conference on Financing for Development had not yet been determined, with suggestions ranging from the high-level political forum to the General Assembly or the Council itself.

56. Accountability for the implementation of that outcome should start at the national level, with Member States being accountable to both themselves and their citizens. In the case of Colombia, the Government had been able to incorporate the sustainable development goals and their related targets into its national development plan even before their official adoption, and conferred much authority to the national statistical commission for the generation of relevant statistics. It had done so through a collective and inclusive process involving the Government, civil society, academics and the private sector. A similar process had been undertaken at the regional level in Africa and Latin America, with the economic commissions of those two regions having used national information from Member States to develop their regional perspectives and common matrices and ambitions that would feed into the global process. Combating illicit financial flows was also an important component of the future agenda.

*Closure of the special high-level meeting*

57. **The President** said that the 2015 special high-level meeting, which had brought together all the key players involved in deliberations on the post-2015 development agenda and its means of implementation, illustrated the important role of the Council in fostering coordination and collaboration between the United Nations and its partner organizations and had shown that the participants shared a strong sense of purpose. Taking place only three months prior to the third International Conference on Financing for Development in Addis Ababa, the meeting had offered a chance to discuss the success criteria and key deliverables of that conference and built on an unprecedented engagement of the Secretary-General at the spring meetings of the International Monetary Fund and the World Bank, including in the plenary meetings of the International Monetary and Financial Committee and the Development Committee. The road to the Addis Ababa conference was challenging, but the international community could not afford to miss the opportunity it offered.

58. Despite an uneven global economic outlook and unemployment, in particular youth unemployment, which remained high, recent economic trends were sending positive signals. It was important to create enabling national and global environments for development. A strong global economy was fertile

ground for development; a weak one would have pronounced economic implications. Ambitious structural reforms must be put in place in many areas, including labour markets, social sectors, infrastructure and energy, for the achievement of the post-2015 development agenda. The real test of that agenda would be in its implementation. In that context, several panellists had highlighted that business as usual would not be sufficient.

59. It would be necessary to tap into all sources of development finance — public, private, domestic and international. While official development assistance would remain crucial in the new financing framework and some donors had reiterated their commitment to meet the 0.7 per cent target, it would not be sufficient. The importance of strengthening tax collection capacity and tax compliance, addressing illicit financial flows and the key role of capacity-building had been recurrent themes.

60. Many participants had also underlined the potential and importance of small- and medium-sized enterprises for economic growth and job creation; the proposed world small and medium-sized enterprises forum was a welcome initiative. The development agenda must also recognize the need for coherence and consistency of the trade system, and address distortions, non-tariff measures, tariff peaks and other policies that hurt developing countries. Completing the Doha Round was important to fully harness the potential for trade and investment.

61. Notwithstanding the importance of respecting national realities and the prerogative of national Governments, which were responsible for development, the ambitious global development agenda could be achieved only through a joint effort involving all actors and all forms of cooperation, particularly South-South cooperation. During discussions on the global economic outlook and systemic issues, including the role of the Council, there had been calls for strengthening the role of the United Nations in global economic governance and international cooperation in tax matters, as well as for giving developing countries greater voice and representation in the governance of international financial institutions. It would be impossible to tackle the challenges of formulating and implementing a new global financing framework without the engagement of all relevant stakeholders. He was confident that the indispensable collaboration with institutional stakeholders would continue and expand, and counted on their support to build, through the conference in Addis Ababa, a solid foundation for the implementation of the post-2015 development agenda.

*The meeting rose at 12.15 p.m.*

United Nations E/2015/SR.28

# Economic and Social Council

Distr.: General
16 July 2015

Original: English

**Special meeting on international cooperation in tax matters**

**Summary record of the 28th meeting**
Held at Headquarters, New York, on Monday, 22 April 2015, at 10 a.m.

*President*: Mr. Drobnjak (Vice-President) ..... (Croatia)

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Opening remarks by the President of the Economic and Social Council

International cooperation in tax matters

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15-06246 (E)

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*In the absence of Mr. Sajdik (Austria), Mr. Drobnjak (Croatia), Vice-President, took the Chair.*

*The meeting was called to order at 10.05 a.m.*

**Opening remarks by the President of the Economic and Social Council**

1. **The President**, welcoming the representatives of national tax authorities, the members of the Committee of Experts on International Cooperation in Tax Matters, representatives of relevant international and regional organizations and representatives of academia, civil society and the private sector, said that the special meeting of the Economic and Social Council on international cooperation in tax matters would also consider how cooperation contributed to mobilizing domestic financial resources for development and the institutional arrangements to promote such cooperation. The current meeting was of particular importance, presenting a valuable opportunity for an inclusive and participatory dialogue among stakeholders. It would also provide valuable input to the preparatory process of the third International Conference on Financing for Development to be held in Addis Ababa in July and it was hoped that concrete proposals and recommendations from the current discussions would be reflected in the outcome document of the Conference.

2. The first panel discussion of the special meeting would focus on the role of international tax cooperation in mobilizing domestic financial resources for development. Tax incentives were used by Governments in developed and developing countries to attract new investment with the aim of stimulating the local economy and creating sustained economic growth and development. Despite some success stories, evidence suggested that, in certain cases, there had been little new investment and substantial tax base erosion. In addition to interactive discussions concerning the options for developing countries' efficient and effective use of tax incentives, a workshop intended for representatives of national tax authorities and relevant ministries would take the discussions to a more practical level and provide officials with the tools to make informed decisions on implementing, designing and administering such incentives.

3. The afternoon meeting would include a panel discussion on tax incentives and tax base protection issues for developing countries and another entitled "Taxation of intellectual property rights and other intangibles: Issues for developing countries". Developing countries were increasingly concerned by inadequate compensation for the value derived from intangibles created in their countries because the relevant taxation rules did not take into account the current global economy. They worried that easily transferrable legal ownership of intangibles to foreign residents could lead to tax base erosion and that inadequate administrative capacity of tax administrations in developing countries and their limited access to databases would have an effect on the pricing of transactions involving intangible assets . The importance of intangible value creation and fair taxation of profits resulting from intangibles for development would also be discussed.

4. In the context of drafting the post-2015 development agenda and its means of implementation, the importance of domestic resource mobilization, with the central role of taxation, continued to be emphasized. International tax cooperation would continue to be one of the central topics in the lead-up to the July Conference on Financing for Development and the United Nations summit for the adoption of the post-2015 development agenda. It was important to ensure that the Committee of Experts on International Cooperation in Tax Matters, as the only United Nations body dealing exclusively with tax matters, was able to contribute effectively, within its mandate, to the financing for development follow-up process and to the post-2015 development agenda.

**International cooperation in tax matters** (E/2014/45-E/C.18/2014/6 and E/2015/51)

5. **Mr. Lara Yaffar** (Chair of the Committee of Experts on International Cooperation in Tax Matters), introducing the report of the Committee on its tenth session (E/2014/45-E/C.18/2014/6) and accompanying his remarks with a digital slide presentation, said that following the resignation of the First Vice-Chair, a new Bureau had been constituted, with Mr. Louie elected as his replacement and Ms. Saksena as the Fourth Vice-Chair.

6. In the context of updating the United Nations Model Double Taxation Convention between Developed and Developing Countries to align it with international standards, the Committee continued to discuss substantive issues that remained on its agenda. One such issue was expediting the exchange of information between authorities to combat tax avoidance and

evasion. It was important to ensure the requisite safeguards and confidentiality rules and specify the conditions under which information could be exchanged automatically. Many countries were looking into new trends and cooperation in that area, particularly along the lines of the Standard for Automatic Exchange of Financial Account Information issued by the Organization for Economic Cooperation and Development (OECD) and the Foreign Account Tax Compliance Act in the United States. The Committee also continued to work on drafting a United Nations Code of Conduct on Cooperation in Combating International Tax Evasion and Avoidance, with particular reference to exchange of information. At its next session, the Committee would continue its attempts to arrive at — and determine the legal format of — a consensus document, according to which States must try to find and use the best tools and a common framework to enhance the fight against tax evasion.

7. The Committee had discussed the draft of a new, controversial article on the taxation of technical services, which allowed a country to tax payments for services provided to that country even if the service provider had no physical footprint there. The Committee would hold a series of round tables to take into account and reflect the differing opinions. While the majority had been in favour of the article — as developing countries commonly used that practice to protect their tax bases — a number of Committee members had opposed it on the grounds that overtaxation could have unwanted effects, such as taxing income that should not be taxed and nullifying the effects of other treaty provisions. The Committee had decided that reflecting the discussions in a balanced manner would be beneficial in updating the United Nations Model Convention.

8. With regard to transfer pricing, the Committee had approved changes to article 9 of the United Nations Model Convention, which had a similar "arm's length" approach to that of OECD. The United Nations Transfer Pricing Manual, however, also included certain mechanisms or guidelines that were easier to apply to developing countries. The Manual was in the process of being updated to include information on intra-group services and cost contribution arrangements, intangibles, business restructuring, documentation and other issues, as well as an annex on available technical assistance.

9. The Committee was also doing innovative work relative to the taxation of extractive industries. It had focused not only on international taxation, but also on other issues such as tax treaties, capital gains and value-added taxation, invoicing and costs, permanent establishments and relevant rules beyond the provisions of the Model, and the fiscal aspects of negotiation and renegotiation of contracts. It would continue to address articles of the Model Tax Convention pertaining to royalties and to double taxation. Further clarification was needed regarding the payment of royalties for the rental of technical or scientific equipment as members were concerned about the scope of application of those provisions, particularly with reference to the leasing of vehicles. In addition, the Committee had added corrections to article 23 on methods for the elimination of double taxation, including whether countries could refuse double taxation in the event that another country did not tax or had reduced the tax on a given income.

10. The report also included responses to a questionnaire on base erosion and profit shifting issues faced by developing countries; those responses were currently being analysed. The Committee would examine the impact of OECD measures adopted in that area and determine which of those could be applied under the United Nations Model. It was also engaged in profound discussions with a view to updating article 8 on shipping, inland waterways transport and air transport, which it hoped to conclude by 2017, and was looking into a number of issues concerning capital gains. The Committee's forthcoming meetings were vital, as it hoped to conclude the important discussion on technical services for which there was, as yet, no clear taxation guide. In closing, he issued a plea to the President of the Council to intercede for more resources to enable the Committee to fulfil its mandate. It had achieved much with little, but it needed skilled staff and more equipment to function effectively.

11. **Mr. Trepelkov** (Director, Financing for Development Office, Department of Economic and Social Affairs), speaking pursuant to paragraph 7 of Council resolution 2014/12 and accompanying his remarks with a digital slide presentation, introduced the report of the Secretary-General on further strengthening the work of the Committee of Experts on International Cooperation in Tax Matters (E/2015/51). The report built on the three previous reports of the Secretary-General which had concluded that the

absence of a single entity with the global legitimacy, resources and expertise to serve as a single coordinating body for international tax cooperation resulted in inadequate representation of developing countries in international tax standard setting. The Committee of Experts on International Cooperation in Tax Matters therefore played a unique role in considering the policy and administrative aspects of international tax cooperation from the point of view of developing countries. All three reports stressed the urgent need for additional resources to support the Committee's work.

12. The 2011 report (E/2011/76) had identified three options for strengthening institutional arrangements to promote international tax cooperation, including converting the Committee of Experts into an intergovernmental body, which Member States had not accepted. More recently, the synthesis report of the Secretary-General on the post-2015 development agenda had recommended, again, the "establishment of an intergovernmental committee on tax cooperation, under the auspices of the United Nations". The proposals in the report before the Council therefore focused, in particular, on better integrating the Committee's work into the programme of work of the Council, as part of the latter's reform, and contributing effectively to the financing for development follow-up process and to the post-2015 development agenda.

13. The Council had taken steps to strengthen the work of the Committee and, more broadly, the role of the United Nations in international tax cooperation. In its resolution 2013/24, it had decided to hold the special meeting to consider international cooperation in tax matters on an annual, rather than an ad hoc, basis. That resolution also recognized the progress made by the Financing for Development Office in developing a capacity development programme in international tax cooperation. The programme, launched in 2012, drew on and supplemented the outputs of the Committee, which could then be used as capacity development tools for the benefit of developing countries. All programme materials and activities adequately reflected the priorities and challenges of developing countries, as well as the views and work of the Committee. Given the emphasis on the importance of domestic resource mobilization with the central role of taxation, including international tax cooperation during the preparations for the third International Conference on Financing for Development, the Committee, with its unique role, was thus in a position to contribute, within its mandate, to articulation of the United Nations financing framework for the post-2015 development agenda, including the sustainable development goals.

14. The 2012 report (E/2012/8) had identified as one of the perceived shortcomings in the working methods of the Committee its weak relationship with the Council. Consequently, consideration could be given to rescheduling and moving the Committee's annual session from Geneva to New York, mirroring the recent move of the Council's substantive session and two subsidiary bodies of the Council, namely the Committee for Development Policy and the Committee of Experts on Public Administration, in whose sessions delegates participated actively. There were several advantages to such a change. Firstly, it would enhance integration of the Committee's work with that of the Council and with relevant United Nations processes. Secondly, there appeared to be greater interest in the work of the Committee of Experts on International Cooperation in Tax Matters among New York delegations than those in Geneva. More delegates would thus be able to participate in its sessions, which were also open to observers, whose valuable contributions added legitimacy to the Committee's outputs. Thirdly, the Committee could organize non-technical briefings to present its main recommendations and outputs and thus heighten the reach of its messages in intergovernmental processes such as the integration and high-level segments. Lastly, the move would enhance interaction between the bureaus of the Council and the Committee and, by obviating the need for staff travel to Geneva, offer considerable administrative advantages, including better Secretariat support for sessions and the possibility of drawing on additional staff from the Financing for Development Office and other divisions of the Secretariat.

*Panel discussion on "The role of international tax cooperation in mobilizing domestic financial resources for development"*

15. **Mr. Trepelkov** (Director, Financing for Development Office, Department of Economic and Social Affairs), moderator, introducing the theme of the discussion and accompanying his remarks with a digital slide presentation, said that the General Assembly had held its second drafting session on the zero draft of the outcome document of the third

International Conference on Financing for Development. All relevant stakeholders had been invited to provide input on the financing framework for the post-2015 development agenda; the panel would thus provide a unique opportunity for the Council to hear from high-level representatives of relevant international and regional organizations and to engage in an interactive dialogue on the role of international tax cooperation in mobilizing domestic financial resources for development. The zero draft recognized that significant additional public resources would be needed to realize sustainable development and achieve the goals. To that end, tax revenues would have to be bolstered and the efficiency of government expenditures, improved.

16. A broad consensus had emerged on a number of issues addressed in the zero draft. Fair and effective tax systems and efficient tax administrations were critical to domestic resource mobilization. Strengthened international cooperation and transparency were needed to combat illicit financial flows, tax evasion and tax avoidance. In order to be beneficial, international tax cooperation strategies must take into account the differentiated needs and capacities of all countries. Developing countries requiring assistance should be given support to strengthen their capacity to participate in and benefit from international tax cooperation efforts. However, negotiations were ongoing on some specific aspects, including the scope and timing of the commitment to increase tax revenue to gross domestic product (GDP) ratios; approaches to harmful subsidies and tax incentives; strategies to optimize national benefits from resource extraction; specific actions aimed at broadening countries' tax bases, enhancing transparency, combating illicit financial flows and addressing tax evasion and avoidance; and initiatives to give greater voice and representation to developing countries, including the upgrade of the Committee to an intergovernmental body.

17. In line with paragraph 8 of Council resolution 2014/12, the Financing for Development Office reported annually to the Council on progress in implementation of its capacity development programme. The Office's newsletter, which had been circulated in the meeting room, provided a detailed progress report on that programme. The key foundations of the programme remained drawing on the outputs of the Committee of Experts on International Cooperation in Tax Matters and disseminating them to national tax authorities; drawing on the unique expertise and network of the members of the Committee, including through ongoing consultations with its Advisory Group on Capacity Development; consulting government representatives from developing countries to ensure relevance and effectiveness of all activities; working with partners to promote complementarities and avoid duplication of efforts; and partnering with regional tax administration organizations to deliver activities in regional settings.

18. In that context, the Office would be offering the United Nations Course on Double Tax Treaties twice in 2015: first for Latin America and the Caribbean and then for the African region. More specialized initiatives focused on negotiation and administration of double tax treaties, including assistance to the Committee in devising a practical manual to assist developing countries in that area. The Office would continue its collaboration with OECD to build on the success of the first joint United Nations-OECD practical workshop on negotiation of tax treaties, holding the event biennially. Additionally, the Office had worked with the International Tax Compact to develop the *United Nations Handbook on Selected Issues in Administration of Double Tax Treaties for Developing Countries*. A French version of the Handbook would be issued by the International Tax Compact, and the Inter-American Center of Tax Administrations (CIAT) had issued a Spanish version. The Financing for Development Office had collaborated with CIAT to develop the United Nations Course on Transfer Pricing, based on the *United Nations Transfer Pricing Practical Manual for Developing Countries*, which would be launched in 2015. Another course, the United Nations Primer on Transfer Pricing, had been piloted in Panama with the participation of tax officials from various developing countries and would be inaugurated, in its revised version, in Zambia in June 2015.

19. The most recent capacity-building project undertaken by the Office focused on increasing developing countries' potential for domestic revenue mobilization by protecting and broadening the tax base. As part of efforts to seek input and feedback from all stakeholders, two workshops had been organized in cooperation with OECD, in New York and in Paris, in 2014. The output of the project — a United Nations handbook on selected issues in protecting the tax base of developing countries — would include a collection of papers addressing the issues in a novel, demand-driven manner and would be used both to deliver

technical cooperation activities at the country level and as input to the Addis Ababa Conference on Financing for Development. The Office was also working on the *United Nations Practical Portfolios on Protecting the Tax Base of Developing Countries*. The first set of portfolios would focus on base-eroding payments and on tax incentives and would also provide a framework for the analysis of domestic law and relevant tax treaty provisions, identifying options to address potential risks of base erosion. Two workshops in conjunction with those portfolios were being organized in 2015 with the participation of relevant stakeholders. The second portfolio would provide information and tools to assist developing countries in assessing the use of tax incentives to attract investment and would be the subject of a dedicated two-day workshop following the current special meeting on international cooperation in tax matters.

20. **Ms. Perez-Navarro** (Deputy Director, Centre for Tax Policy and Administration, Organization for Economic Co-operation and Development (OECD)), accompanying her remarks with a digital slide presentation, said that while the Committee of Experts focused on international tax matters, it was also important to think about national tax matters and how to improve the tax situation and, consequently, development, in all countries. The first way to address that was by tackling tax evasion and illicit financial flows. OECD had contributed to advancing efforts to that end, primarily through the development of standards for the exchange of banking information on request and, subsequently, automatic exchange of such information. Over 93 countries had already committed to implementing those standards by 2017 or 2018. That would change the landscape significantly since the ability to obtain information would deter would-be tax evaders and enable States where they had hidden assets to identify them.

21. OECD had also invited countries to accede to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, which guaranteed state-of-the-art bilateral and multilateral cooperation and provided its 86 current signatories access to information and various forms of assistance through one instrument. The Global Forum on Transparency and Exchange of Information for Tax Purposes also played a vital role; in implementing standards consistently and providing a level playing field for all by not simply shifting tax evasion from one jurisdiction to another, it had led to real change on the ground. With regard to illicit financial flows, the OECD Task Force on Tax Crimes and Other Crimes adopted a "whole of government" approach to fighting financial crimes: criminals did not operate in silos; neither should authorities. In addition to developing best practices, OECD had established an international academy for tax crime investigation and was hoping to set up regional academies to deliver intensive three-week training courses.

22. In base erosion and profit shifting, through largely legal transactions, companies shifted profits made in countries of manufacture to locations where there was no value creation, but also no taxation. OECD worked to address such tax avoidance through its 15-point Action Plan on Base Erosion and Profit Shifting, which aimed to close loopholes by modifying the tax treaty model and transfer pricing guidelines; it had also done work in areas such as mandatory disclosure requirements and the deductibility of interest. The issue was of utmost importance given that developing countries' relied more heavily on corporate tax revenue than developed countries. However, all countries had a common interest in closing gaps. Consequently, OECD had adopted a three-pronged approach to strengthening the engagement of developing countries: expanding the membership of the Committee on Fiscal Affairs to the Group of 20 (G20) and a few other countries, to include more than 62 active participants; enhancing regional dialogue through organizations such as CIAT and the African Tax Administration Forum (ATAF); and bolstering capacity-building in the context of base erosion and profit shifting, with staff members dedicated to and working directly with developing countries to help them to understand issues and communicate concerns back to OECD. Moreover, through the G20 Development Working Group, OECD created development toolkits to address specific issues identified by developing countries concerning base erosion as well as the 15 Actions.

23. In the area of providing comparable revenue data and establishing a globally comparable set of revenue statistics, OECD, in cooperation with other organizations, had accomplished a great deal in Latin America and the Caribbean. It had already begun to compile statistics for Asia and was just beginning to do so for Africa. The statistics were a useful tool for countries seeking to establish sound tax policies.

Without such policies and data, it would be difficult for countries to determine the right mix of taxes required to mobilize resources.

24. Through its Global Relations Programme, OECD carried out over 70 capacity-building events per year, primarily building on synergies with other organizations to be useful. One initiative of note was Tax Inspectors without Borders, through which experts transferred knowledge to officials in developing countries. Though not officially launched, several pilots had been carried out and there was high demand for and positive feedback on the work, which would be scaled up and in which she hoped the United Nations would get involved.

25. **Ms. Perry** (Assistant Director, Fiscal Affairs Department, International Monetary Fund (IMF)), accompanying her remarks with a digital slide presentation, said that for more than 50 years, IMF had been working to improve domestic resource mobilization. In addition to its focus on general tax policy and revenue administration issues, it worked extensively on fiscal regimes for natural resource extraction, as well as on the fiscal aspects of climate and the environment. Technical assistance was demand-driven and was supported by internal resources, as well as extensive bilateral donor financing and two $30 million multi-donor trust funds. All technical assistance, provided to over 100 countries each year, was managed from headquarters by some 60 staff members. The lessons learned from technical assistance created a virtuous circle by informing IMF analytic work, which improved advice given on tax policy and administration. The publication in 2014 of the study entitled "Spillovers in International Corporate Taxation" was one example of that.

26. Tax evasion and avoidance represented a greater proportion of revenue loss for developing countries than for developed countries and while focus on the issue was critical, it was important not to lose sight of the core challenges that the developing countries continued to face in mobilizing resources. Among the core policy challenges addressed by IMF were issues relating to the need to design broad-based value-added tax (VAT) with a fairly high threshold; coherent schemes for small enterprises; dealing with trade liberalization; building an effective personal income tax, which was particularly difficult in the lowest-income countries; and dealing with high-income individuals and the largest individual and corporate taxpayers, particularly with regard to the equity of the tax system. Strengthening real property taxation could significantly improve equity and raise revenue. Additionally, fiscal regime design and implementation for extractive industries could be counted among the most important issues for natural-resource-rich countries; IMF and other organizations provided technical assistance in developing analytical capacity within Governments to examine and reform existing systems and design an optimal tax system. The questions of broadening the corporate income tax base for developing countries and tax competition through the granting of excessive incentives were also long-standing concerns.

27. From an administrative perspective, while it was important to work on transfer pricing and other issues, building solid revenue administrations was the greatest challenge for low-income countries. Such administrations must be based on good governance, good management and organization, using risk assessment tools to focus on compliance where the greatest returns could be had, and taxpayer segmentation to concentrate efforts of limited staff where the greatest revenue could be raised.

28. The recently developed Tax Administration Diagnostic Assessment Tool (TADAT), which was intended to provide an objective, standardized performance assessment of a country's tax administration, had proven to be feasible as an international public good. Though still in the pilot stage, the tool would be available for trained assessors from any organization or country, with guidance and quality control provided by the secretariat housed in IMF. It reflected the improved technical focus on the core challenges faced by administrations and the ongoing efforts of the international community to work together to avoid duplication of efforts and enhance strength.

29. In terms of coordination with other organizations, the International Tax Dialogue, which brought together staff that managed tax operations to facilitate dialogue, had a useful website with information on country tax systems (http://www.itdweb.org/) and organized a major ministerial-level conference every two years. The International Tax Dialogue on Tax and the Environment would be hosted by OECD from 1 to 3 July. The calls to avoid duplication and conflict among assistance providers had long been heard. The steering committees of IMF trust funds comprised donors and country officials with an understanding of

the technical assistance provided. Similarly, the International Tax Dialogue had been engaged in cooperative analyses at the request of G20 leaders, authoring papers on fair financial contributions in the wake of the financial crisis; it was currently working on a paper on tax incentives, with input from developing countries. Cooperation was thus not restricted to bilateral interactions with member countries.

30. **Mr. Verhoeven** (Lead Economist and Cluster Lead with Governance Global Practice, World Bank Group), accompanying his remarks with a digital slide presentation, said that the World Bank, like any other bank, was interested in the return on its investments. In its case, that included non-financial returns such as development. Reducing tax evasion produced very high returns of US$49 for every dollar invested. Ensuring that the various organizations working in the field contributed in the most efficient way would involve examining their relative convening power, skills, resources and instruments. Like organizations such as IMF and OECD, the World Bank provided technical assistance, advice and analysis across the developing world. As its distinguishing feature was its ability to provide loans to support large capacity-building projects, its contribution included financing projects recommended by other organizations. The World Bank was particularly interested in funding information technology systems for tax administrations in order to help States reduce levels of tax evasion. It also provided targeted assistance on base erosion and profit shifting matters.

31. The World Bank was committed to ensuring that the voices of developing countries were heard at the international level. To that end, the international agenda and initiatives related to base erosion and profit shifting must be made accessible to those States by ensuring that they understood the measures being introduced, the potential benefits and the means of accessing those benefits. A good starting point would be to address the significant difficulties faced by developing countries with regard to tax incentives.

32. The World Bank had contributed to tax transparency by helping States to meet the standards of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. It was helping them move towards implementing automatic exchange of information and also ensured that the perspective of low-income countries was included in OECD proposals, such as the base erosion and profit shifting project.

33. World Bank workshops with developing countries had revealed that there were several priority issues for those countries. The most fundamental of those was capacity-building, given that complex tax matters could not be addressed unless effective audit systems, taxpayer registers and collection systems were in place. Developing countries considered transfer pricing issues to be their biggest challenge. The often protracted and costly resolution of disputes between corporations and Governments was particularly problematic. It would be difficult to make progress in the area of transfer pricing without access to comparable data on the prices of similar transactions around the world.

34. Another issue was that many developing countries did not yet have a legal framework in place to address base erosion and profit shifting. Where such frameworks did exist, it was important to ensure that members of the judiciary possessed a thorough understanding of the issues so that they could properly apply the law. Furthermore, developing countries sometimes found themselves locked into treaties that they were not happy with. Some developed countries were taking the lead in tackling that problem by signing new agreements with developing countries. With regard to the harmonization of tax systems, it was important to ensure that States did not undermine one another's efforts. Developing countries had also asked for the issue of natural resource taxation to be included in the base erosion and profit shifting agenda.

35. **Mr. Verdi** (Executive Secretary, Inter-American Center of Tax Administrations (CIAT)), accompanying his remarks with a digital slide presentation, said that the Center sought to achieve cooperation resulting in coordinated action, such as its translation of the *United Nations Handbook on Selected Issues in Administration of Double Tax Treaties for Developing Countries* and its collaboration with the United Nations Financing for Development Office on *Measuring Tax Transaction Costs in Small and Medium Enterprises*. It was engaging in South-South cooperation with the support of partners such as Germany, Italy, Switzerland, the European Union, the Inter-American Development Bank, IMF, the International Tax Compact and the World Bank. It was also engaged in significant cooperation with the African Tax Administration Forum, the Intra-European Organization of Tax Administrations,

Centre de rencontre des administrations fiscales and the Study Group on Asian Tax Administration and Research.

36. The Center acted as a bridge between developing countries and OECD, communicating the priorities, restrictions and problems of developing countries to OECD and informing those countries about what the base erosion and profit shifting initiative could do for them. The base erosion and profit shifting initiative would have to take into account differing national economies in the Latin American and Caribbean region: some were based on industry, while others depended on tourism, mineral extraction or gas and oil. The initiative provided an opportunity to discuss important issues such as bank secrecy, which should be abolished, and multilateral agreements, which should replace bilateral agreements. Another important aspect of the project was information exchange. While many countries were a long way from being able to transfer information automatically, they were headed in the right direction. The Center was focusing on the means of implementing the measures approved by the initiative. The point of harmonization should not be to make all systems identical; there must be enough flexibility to take national restrictions into account. The Center was also seeking resources that could be used to strengthen the tax administrations of its member States. Its consultations had focused primarily on the first seven actions of the 15-point Action Plan on Base Erosion and Profit Shifting, which were the most important.

37. It was essential to implement specific measures to combat tax evasion in transactions involving commodities. One such measure was the "sixth method" for pricing commodity transactions, which was now law in most Latin American countries. Information should be made more readily available in order to facilitate the implementation of the "arm's length" principle. There should also be greater emphasis on country-by-country reporting, as it was difficult for even large economies to obtain information about multinational corporations, owing partly to the reluctance of those enterprises to cooperate. The hope was that such corporations would eventually be legally obliged to present their master files and local files. In short, the base erosion and profit shifting initiative presented many exciting opportunities for progress in the region.

38. **Mr. Marais** (Director, Strategy and Planning, African Tax Administration Forum (ATAF)) said that international organizations, Governments and regional and continental structures that had traditionally competed against one another on tax matters were now tending to collaborate with each other and with the business sector, the academic sector and civil society. In Africa, developing countries that had once been merely informed of what was happening were now being consulted and even participating in the work, including through highly technical contributions. The Forum was currently working with partners, including OECD, the International Monetary Fund, the World Bank, the African Development Bank and the African Union, on issues such as base erosion and profit shifting, information exchange, tax incentives and domestic resource mobilization. It was also calling for a commission on tax matters to be established within the structure of the African Union. The Forum had benefited greatly from its visits to the Inter-American Center of Tax Administrations and hoped that regional tax organizations would develop better mechanisms to share their experiences. It was also exploring the possibility of collaborating with the African Industry Tax Association, a group of multinational corporations, and had established the African Tax Research Network, whose research would inform the future work of the Forum. It continued to develop its cooperation with civil society.

39. Financial and technical resources were too limited for organizations to indulge in turf battles and duplication of work. As the base erosion and profit shifting initiative moved from the consultative to the implementation stage, it would be important to consider how best to distribute resources in order to help countries use the toolkits most effectively. It was absolutely essential to ensure that there were sufficient technical resources available to developing countries.

40. The purpose of collaboration on tax matters was to improve the quality of life for all through the development of societies and economies. Failing to overcome tax-related challenges would mean that the world would continue to face the capsizing of boatloads of migrants, shameful acts of xenophobia in Africa and atrocities such as those committed by Boko Haram, Al-Shabaab and the Islamic State in Iraq and the Levant (ISIL). All stakeholders in the tax arena must be agents of change to improve the lives of ordinary people.

41. **Mr. Rahman** (Bangladesh) expressed concern at the emphasis on domestic resource mobilization in the

discussions on the sustainable development goals. Least developed countries attempting to implement the Millennium Development Goals already had to deal with an overwhelming financial burden and it seemed that, once again, they might be left to their own devices. Given the humanitarian cost of inaction, it was essential for those States to receive assistance. Noting that the panellists had not discussed the Asia-Pacific region, he asked whether OECD, IMF and the World Bank were doing enough in that part of the world.

42. **Ms. Kage** (Germany) requested further information on the conference on tax and the environment mentioned by the representative of IMF.

43. **Ms. Sloane** (United States of America) asked how tax-related deliverables likely to be proposed in the outcome document of the third International Conference on Financing for Development — for example, Tax Inspectors without Borders — would be developed. She also enquired about coordination mechanisms the panellists' organizations had with the Chairs of the Conference, and about their input to the zero draft of the outcome document.

44. **Mr. Trepelkov** (Director, Financing for Development Office, Department of Economic and Social Affairs), said that there was no organization in the Asia-Pacific region comparable to the Inter-American Center of Tax Administrations or the African Tax Administration Forum. However, there had been some discussion on the possibility of establishing such an organization. In the meantime, the Financing for Development Office had been trying to involve other relevant regional associations in its work.

45. **Ms. Perez-Navarro** (Deputy Director, Centre for Tax Policy and Administration, Organization for Economic Co-operation and Development (OECD)) said that there was no question of eliminating development aid; rather, the discussions on domestic resource mobilization were intended to determine how to use aid most efficiently, if necessary, by applying more aid to tax matters. Taxation was not only critical in enabling States to finance their own development; it also played an important role in State-building by creating a relationship and accountability between citizens and their Governments.

46. OECD was working with regional actors to try to develop a tax administration organization for the Asia-Pacific region. However, a great deal of relevant work was already being done in the region through the broader OECD Southeast Asia Regional Programme and structures such as Asia-Pacific Economic Cooperation (APEC).

47. The conference referred to by the representative of Germany was the sixth International Tax Dialogue Global Conference. The theme for the 2015 conference, "Tax and the Environment", had been selected in the run-up to the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change. Topics for discussion would include the specific challenges faced by developing countries in the area of tax and the environment.

48. OECD hoped to launch the Tax Inspectors without Borders project in the near future and felt that the third International Conference on Financing for Development would be an ideal occasion to do so. A number of its representatives had participated in the discussions on the zero draft of the outcome document for that Conference, and OECD would continue to provide input.

49. **Mr. Trepelkov** (Director, Financing for Development Office, Department of Economic and Social Affairs), said that while other stakeholders were invited to provide input to the discussions on the zero draft, it was up to Member States to make specific proposals for inclusion in the document.

50. **Ms. Perry** (Assistant Director, Fiscal Affairs Department, International Monetary Fund (IMF)) said that she agreed with the comments by the representative of OECD concerning development aid. While the lack of a regional tax administration organization for the Asia-Pacific region was a matter of concern, IMF was working bilaterally with low-income Asian countries. It had also established a regional technical assistance centre in Fiji to ensure that small and remote States in the region were given adequate attention.

51. IMF was submitting comments on the zero draft of the outcome document of the third International Conference on Financing for Development. It was developing a number of tools for States to use on a voluntary basis, although they were not specifically intended to be rolled out at the Conference. Those tools included its Revenue Administration-Gap Analysis Program (RA-GAP), which was designed to develop comparable measures of revenue shortfalls based on a State's existing laws and administration, and the

Revenue Administration-Fiscal Administration tool (RA-FIT), which would enable States to benchmark themselves against their peer countries. Policy tools were more difficult to design, but work was under way on toolkits relating to tax incentives. The focus had moved towards developing readily available comparison tools that countries could use to measure their own progress.

52. **Mr. Verhoeven** (Lead Economist and Cluster Lead with Governance Global Practice, World Bank Group) said that the Republic of Korea and the World Bank would hold a conference on the Asia-Pacific region in June. The Government of the Republic of Korea had suggested that the conference might be an opportunity to begin the process of establishing a regional tax administration organization.

53. The World Bank was commenting on the zero draft of the outcome document of the third International Conference on Financing for Development. It should also be involved in discussions at the Addis Ababa Conference with regard to its role and its potential collaboration with Governments.

54. **Mr. Verdi** (Executive Secretary, Inter-American Center of Tax Administrations (CIAT)) said that the Study Group on Asian Tax Administration and Research had visited the Inter-American Center of Tax Administrations as part of its research into the possibility of creating a regional tax administration organization.

55. **Mr. Marais** (Director, Strategy and Planning, African Tax Administration Forum (ATAF)) said that the impetus for establishing the African Tax Administration Forum had come from States in the region, which must be prepared to make the necessary commitments and sacrifices. The Forum had documented the process and would be happy to share its experience with actors in the Asia-Pacific region.

56. **Mr. Trepelkov** (Director, Financing for Development Office, Department of Economic and Social Affairs), said that the collaborative work of international and regional tax organizations to benefit their members and to further development in general would continue in the run-up to the third International Conference on Financing for Development and beyond. Those organizations were invited to provide comments and information on their initiatives and to organize side events for the Conference.

*General discussion*

57. **Mr. Mminele** (South Africa), speaking on behalf of the Group of 77 and China, said that despite increasing recognition of the central role of tax systems in development and the unprecedented demand from both developing and developed countries for strengthening international cooperation on tax matters, there was still too little focus on the development dimension of tax matters. The lack of a global, inclusive norm-setting body for cooperation at the intergovernmental level was cause for considerable concern. The Committee of Experts on International Cooperation in Tax Matters should become an intergovernmental subsidiary body of the Council, with experts representing their respective Governments instead of acting in their individual capacity. Such a change would not only strengthen international cooperation in tax matters but also allow all Member States to have an equal voice. The United Nations was the only truly global forum with universal relevance and participation but, as noted by the Secretary-General in his report, the Committee was not fully able to bridge the fundamental gap of representation between developed and developing countries because of its non-governmental status and limited resources (E/2015/51, para. 22).

58. In addition to updating the Model Convention and completing the Transfer Pricing Manual, the Committee of Experts had carried out exemplary work in capacity-building, an area of critical importance to developing countries. The Committee should be further strengthened by better integrating its work into the programme of work of the Council and enabling it to effectively contribute to processes relating to financing for development and the post-2015 development agenda. In particular, the outcome document of the third International Conference on Financing for Development should include a commitment to upgrade the Committee to an intergovernmental subsidiary body of the Council. He urged States to make voluntary contributions to the Trust Fund for International Cooperation in Tax Matters with a view to supporting the work of the Committee and increasing the participation of experts from developing countries.

59. **Ms. Francis** (Observer for the Bahamas), speaking on behalf of the Caribbean Community (CARICOM), said that there was an urgent need for an informed discussion on international cooperation in tax

matters within the context of a universal intergovernmental dialogue on development. Any meaningful dialogue must take into account developing countries' dual objective of achieving sustainable development through job creation and increasing transparency within the financial sector. The model for such development should be based on a diverse mix of high-quality business services, including financial services, as such models had been shown to promote skills acquisition, training, human development, infrastructure development, strong judiciaries, business transparency and economic freedom. CARICOM had supported the work to improve transparency within international financial centres and would continue to contribute to initiatives relating to tax matters with global consequences. However, it must be recognized that the limited financial and human resources of developing countries meant that they were still in need of significant assistance to enable them to participate meaningfully in tax cooperation initiatives and implement international standards and agreements.

60. The CARICOM region had well regulated international financial centres and was fully committed to implementing globally agreed standards. CARICOM recognized the significant work being done in the areas of base erosion and profit shifting and automatic exchange of information at the global level and welcomed the efforts that had been made to include developing countries in those processes. However, in many cases, small States were invited to participate only after decisions had been made. That situation must change if policies were to result in equal treatment and take into account the development realities of small States when establishing timetables. Moreover, the opportunity to participate in decisions on fundamental changes to international tax standards was a right, not a privilege. The involvement of all States on an equal footing would also ensure that discussions were enhanced by a variety of perspectives. Therefore, CARICOM fully supported the call for the conversion of the Committee of Experts into an intergovernmental subsidiary body of the Council. Such a change would help to bridge the gap in international tax cooperation and strengthen the work of the Committee, particularly in relation to development and capacity-building. Upgrading the Committee would also result in better integration of tax matters into sustainable development processes and bring much-needed weight to discussions on key issues of concern for developing countries with regard to financing for development and the post-2015 development agenda.

61. **Mr. Busuttil** (Observer for the European Union) said that domestic resource mobilization and enhancing fiscal capacity were essential for financing sustainable development. The European Union and its member States would therefore continue to engage constructively in the promotion of international cooperation in tax matters. Supporting developing countries in designing efficient and cooperative tax systems was a priority of the European Union's development policy.

62. The European Union and its member States supported broader participation of developing countries in relevant international forums, as that would contribute to their efforts to effectively tackle tax evasion and other harmful practices. However, converting the Committee of Experts into an intergovernmental commission was not the way to achieve that goal. The current format of a body comprising independent experts representing different parts of the world was appropriate. Strengthening institutional arrangements should not lead to the creation of competing forums, especially as there were already a number of international forums pursuing similar objectives, including the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, the OECD Task Force on Taxation and Development, the International Tax Dialogue and the International Tax Compact. Rather than indulge in institutional proliferation, the Council should focus on improving cooperating among existing bodies, including the Committee of Experts, and ensuring that all States were in a position to participate in and benefit from international transparency in tax matters. Effective cooperation between the Committee of Experts and OECD structures should be aimed at reinforcing structures such as the Global Forum, which now comprised 125 countries, including developing countries. Increased dialogue and cooperation with regional structures, including CIAT and ATAF, and with initiatives such as the Extractive Industries Transparency Initiative, could also be explored. While domestic resource mobilization and increased fiscal capacity were essential for financing sustainable development, establishing new intergovernmental bodies would not be the most effective way forward. Instead, the creation of synergies between existing forums should be explored and resources should be

used where they could deliver the most effective results.

63. **Ms. Medvedeva** (Russian Federation) said that her delegation supported the efforts of the Committee of Experts to update the United Nations Model Double Taxation Convention and the *United Nations Handbook on Selected Issues in Administration of Double Tax Treaties for Developing Countries*. Tax policy was one of the most important instruments for domestic resource mobilization which, alongside official development assistance (ODA), would be a major source of financing for the post-2015 development agenda. An effective tax system should cover all core elements of taxation and tax administration procedures. It must ensure that budget revenue was commensurate with levels of economic development and tax legislation. The extent and structure of the tax burden should not impair conditions for economic growth, distort competition or impede investment flows. Tax administration systems must also focus on minimizing costs to economic actors by enhancing accounting and reporting and ensuring the transparency and simplification of procedures between taxpayers and tax agencies.

64. Tax policies taking into account the needs of developing countries should include measures to improve tax collection, reduce the ratio of tax debt to government budget income and increase the proportion of taxpayers who conscientiously comply with their obligations. In that context, the G20 decision regarding the implementation of the Action Plan on Base Erosion and Profit Shifting was significant. Measures to develop electronic information exchange, reduce excessive administration and reduce costs to taxpayers in preparing and submitting their tax returns also had an important role to play in domestic resource mobilization. Her Government was actively involved in international cooperation aimed at building capacity in developing countries. For example, it had contributed to the World Bank trust fund for improving public financial management in Europe and Central Asia, promoting the exchange of knowledge and experience in the area of tax policy and tax administration and strengthening accountability and the fiduciary environment (SAFE Trust Fund).

65. **Mr. Rahman** (Bangladesh) said that his delegation supported upgrading the Committee of Experts on International Cooperation in Tax Matters to an intergovernmental body, as such a move would provide many benefits to Member States. Moving the annual session of the Committee from Geneva to New York would also be useful, given that the key stakeholders of the United Nations system were based in New York.

66. There had been a great deal of emphasis on domestic resource mobilization during the preparatory processes for the third Conference on Financing for Development, the summit on the post-2015 development agenda and the Paris Conference on Climate Change. While least developed countries were highly involved in those processes, they were concerned that both their crucial need for international financing and their structural constraints were largely being ignored. In particular, least developed countries in the Asia-Pacific region were in desperate need of capacity-building assistance. He called on all actors to ensure that the constraints and requirements of least developed countries were properly taken into account.

67. **Ms. Franceschi Navarro** (Panama) said that taxes were a crucial instrument in achieving a solid long-term financial platform for sustainable development. Cooperative tax regimes would play a key role in the mobilization of domestic financial resources by ensuring the development of sound and broad-based financial sectors. Taxes were needed to fund State services and ensure effective State-building. They also paved the way for more responsive governance by enabling citizens to hold Governments accountable for their actions. Broad-based national growth was dependent on a solid tax relationship between the Government, the private sector and the general public. For developing countries, particularly those transitioning to middle-income status, a strong tax system combined with stable economic growth was the solution to long-term reliance on aid. While effective policy creation and means of implementation were important, basic challenges relating to the collection of taxes must also be addressed at the national, regional and global levels. Developing countries faced difficulties in that regard because their overall economic structure was not conducive to tax collection and because citizens were unwilling to pay taxes. The reticence of citizens to comply with their tax obligations was a direct result of a lack of confidence in the fiscal system resulting largely from unfair taxation practices and the misuse of public funds.

68. Maintaining sound tax systems required effective information exchange. One of the main concerns of the international community was tax evasion by means of

tax havens, which deprived States of a great deal of revenue that could be channelled into development. Her delegation therefore welcomed the expanded cooperation between States that had been achieved with the assistance of international organizations in that area. The ultimate objective of such efforts should be to compel offshore financial centres to compete on the basis of the services, rather than the level of secrecy, they offered. Panama had taken important steps to foster cooperation in tax matters, as its economy was highly dependent on its thriving financial sector. The Committee of Experts should be upgraded to an intergovernmental body and relocated to New York in order to ensure the equal treatment and participation of all Member States and to promote development.

69. **Ms. Sloane** (United States of America) said that, with domestic resources dwarfing ODA in even the least developed countries, mobilizing the domestic tax base and other domestic revenue would be key to sustainable development. The United States was a strong supporter of capacity-building assistance in revenue collection and management for developing countries. It had supported activities ranging from increasing the efficiency of established tax regimes through information technology to more foundational work such as assisting in the formulation of tax legislation and administrative capacity in newly independent States. It had also participated in various multilateral forums on tax issues.

70. Her delegation opposed the establishment of an intergovernmental body for international cooperation in tax matters within the United Nations system, including through the conversion of the Committee of Experts. The creation of such a body would lead to duplication of work with existing structures such as the African Tax Administration Forum, IMF, the Inter-American Center of Tax Administrations, OECD and the World Bank, whose work already took into account the policy positions of both developed and developing countries. In its current format, the Committee of Experts had produced meaningful results and tools for developing countries while minimizing duplication of effort, and it was well placed to inform the discussions on financing for development and the post-2015 development agenda without having to specifically align itself with those processes. Her delegation was also unpersuaded of the need to significantly expand the membership of the Committee of Experts. While its 25 members acted in an individual expert capacity, they came from diverse backgrounds and all the major geographic regions represented at the United Nations. Furthermore, around half the experts were citizens of countries that were not currently members of the Council. The Committee of Experts was diverse enough to represent a variety of views yet small enough to reach consensus on potentially contentious issues. The Committee should continue to consult broadly and openly, and perhaps seek to engage with States and experts that had not yet been involved in its work, but should not be formally expanded.

71. **Mr. Fossard** (Financial Transparency Coalition), speaking on behalf of a broad coalition of civil society organizations active in the financing for development intergovernmental process, said that developing countries had been calling for the Committee of Experts to be upgraded for some time. The proposals in the Secretary-General's report appeared to focus primarily on strengthening the Committee. They were based on an analysis by the Secretariat and replies from eight delegations, most of them members of the Group of 20, meaning that they were not representative of the views of developing countries. However, promotion of intergovernmental tax cooperation should be informed by the financing for development process, a context in which developing countries had clearly expressed their position in favour of a universal, intergovernmental body with a broad mandate and appropriate resources.

72. Civil society organizations did not consider strengthening the Committee of Experts to be an alternative to enhancing its political status. Furthermore, while OECD initiatives on base erosion and profit shifting and automatic information exchange were inclusive and involved consultations, they were no alternative to a body in which all Member States were represented on an equal footing. Given the enormous differences between the interests of industrialized countries and developing countries, it was essential to ensure there was political space for a debate on international tax matters. It was only right to establish an intergovernmental body for tax matters modelled on universal or near-universal United Nations bodies such as the Intergovernmental Committee on the Convention on Biological Diversity or the United Nations Forum on Forests.

*The meeting rose at 1.15 p.m.*

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# Economic and Social Council

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**Special meeting on international cooperation in tax matters**

**Summary record of the 29th meeting**
Held at Headquarters, New York, on Wednesday, 22 April 2015, at 3 p.m.

*President*: Mr. Sajdik ..... (Austria)

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*The meeting was called to order at 3.10 p.m.*

**International cooperation in tax matters** (*continued*)

*Panel discussion: "Tax incentives and tax base protection issues for developing countries"*

1. **Mr. Zolt** (Professor of Law, University of California at Los Angeles School of Law), moderator, introducing the theme of the discussion, said that the panel would provide an introduction to the work of the International Monetary Fund and the World Bank on tax incentives and their effects on tax bases in developing countries. The Financing for Development Office of the Department of Economic and Social Affairs had worked hard to ensure that adequate attention was given to the interests of developing countries in fashioning responses to the challenges of base erosion and profit shifting by multinational corporations. The Office had begun a project to examine base erosion issues, with a special focus on developing countries; it had organized two conferences on the subject in the past year and would soon be hosting a two-day workshop on tax incentives, with participants representing over 20 countries.

2. Although it was discouraging that the Organization for Economic Cooperation and Development (OECD) had not included the consideration of tax incentives in its action plan to address base erosion and profit shifting, the United States deserved credit for highlighting the importance of tax incentives in examining base erosion, especially in developing countries. Recognizing the importance of base erosion, the Development Working Group of the Group of 20 (G20) had also invited the International Monetary Fund, OECD, the United Nations and the World Bank to write a report on options for low income countries' effective and efficient use of tax incentives for investment. The underlying concern of the Working Group was that low-income countries often faced acute pressures to attract investment by offering tax incentives, which then eroded the countries' tax bases with little demonstrable benefit in terms of increased investment. The aim was to develop principles for the design and governance of tax incentives and to provide guidance on good practices in those areas.

3. **Ms. Perry** (Assistant Director, Fiscal Affairs Department, International Monetary Fund), panellist, accompanying her remarks with a digital slide presentation, said that , for the last 50 years, the Fiscal Affairs Department had been advising countries on how to reduce and eliminate waste through the design and use of tax incentives in order to avoid needless loss of revenue and unplanned distortions. However, the forces that drove tax competition between countries had been very strong, with globalization only exacerbating the problem. Low-income countries had expressed great concern over the issue.

4. Although the professional consensus against the use of certain kinds of tax incentives had existed virtually since the 1950s, the use of such incentives was becoming increasingly common. In 1980, fewer than 40 per cent of low-income countries in sub-Saharan Africa were offering tax holidays, or exemptions from the payment of corporate taxes, in exchange for certain investments, and none of those countries had established any tax-free zones. By 2005, more than 80 per cent of African countries were offering tax holidays, and more than 50 per cent had established some sort of tax-free zones. Since then, such approaches had become even more extensive and more widespread.

5. The report commissioned by the Working Group of the G20 would focus only on those forms of national-level tax incentives intended to attract investment in general and on business income taxes in particular. Although all lessons that could be drawn from tax incentives applied to high- and low-income countries alike, the costs of such incentives relative to domestic revenue appeared somewhat higher in low-income countries than in high-income countries. Tax holidays and exemptions from income tax were the most pervasive types of tax incentives and, in terms of revenue lost relative to benefits gained, the most damaging for the countries that offered them.

6. From the standpoint of the national Governments granting them, tax incentives were not necessarily effective, as measured by the factors that influenced where and whether international investors invested, which could include economic and political stability and local market conditions. While tax incentives were increasing, their importance in investor decision-making had in recent years fallen behind other factors, including political stability. Econometric evidence showed that tax incentives did affect foreign direct investment (FDI), although their effects varied depending on the kind of investment and its potential location. Their main effect was on choice of location

for greenfield investments, although that effect was felt less in industrialized countries than in developing countries.

7. Numerous factors went into the analysis of the potential efficacy of tax incentives for investors, including the host country tax system. Host taxation without deferral reduced the value of incentives that host countries could grant. For example, if all the income of an American company investing in a low-income country was taxed at the United States tax rate, the value of the incentives granted in the source country would be greatly reduced. The availability of other tax avoidance devices also mattered. If corporate taxes could be reduced through tax planning schemes, there would be less need for direct tax reductions and competitive deals. Base erosion and profit shifting, for example, might make tax incentives more important for investors if they could not lower their taxes using the elaborate tax planning schemes that the work on base erosion and profit shifting was designed to counteract.

8. Incentives were effective only when they led to increased investment, net of the displacement investment that would have been made without the tax incentive. What was important for the country involved was the net amount of investment, because it did not matter what factory benefited from the investment if the investment would not lead to a change in the total number of jobs created. Many countries that had responded to the survey conducted for the report commissioned by the G20 Development Working Group had cited the impact of tax incentives on job creation as a factor of great concern to them. However, more important than the number of jobs was the net income generated, or the effect of the incoming investment on the well-being of the population.

9. Spillover benefits, such as transferring knowledge to or generating new job skills in a given country that could not otherwise have been generated, were important but hard to quantify. Those factors must as a whole exceed the social costs or lost tax revenue resulting from the tax incentive for the incentive to be effective. Lost tax revenue came not just from the project in question; if the country did not design the incentive correctly, the tax revenue from all already existing activities of a similar nature would also be reduced.

10. Design was also critical. Environmental costs and consequent distortion of the rest of the economy must be taken into account. As a result of a massive tax break, incentives might lead to investments with a lower pre-tax return than other possible investments. They might have a higher post-tax return, but that was not necessarily an efficient use of national resources. Surveys had shown that the redundancy of incentives could be very high, because the investment in question might still have been made without the incentive.

11. The review being prepared for the G20 Working Group would contain analyses and practical tools that countries could use to assess the value and cost of tax incentives, as well as information on methodologies for measuring revenue foregone following the granting of certain tax incentives. Revenue costs were often overestimated in such reviews because the responses sought did not show that without the investment that would have been paying the tax there would be no revenue cost. However, such reviews also often did not take into account the avoidance opportunities created or the offset of other investments, leading to an underestimation of revenue costs.

12. The review was a fairly straightforward initial count that might be designed to determine, for example, how much tax revenue had been lost owing to a three percentage point reduction in the corporate tax rate for a certain sector. While that was no more than a first step in evaluating tax incentives, it still required data at the company level, including for companies that had been granted tax holidays. Sometimes, companies that were granted tax holidays were not required to file or report earnings during the period of the exemption, resulting in serious transparency and assessment issues.

13. While very approximate, tax expenditure budgeting, which was increasingly common, was still a major step forward. Many developing countries were starting to undertake such analysis, which was crucial for transparency. It was important to be able to quantify the effects of investment incentives to invest, which entailed looking at effective tax rates. Such an endeavour could be quite complicated, but methods had been devised to simplify the task.

14. Lastly, in the course of an analysis, it was necessary to ask about the frequency of positive and negative experiences with incentives; the types that were more effective; the obstacles to reform; the ways of attracting investment that were more effective and efficient than the methods currently in use; and the

obstacles to the introduction of better methods and how to overcome them. Those obstacles must be addressed from the standpoint of financing for development and domestic resource mobilization.

15. **Ms. Moreno-Dodson** (Lead Economist, Global Lead for Tax Policy, Macroeconomics and Fiscal Management, World Bank Group), accompanying her remarks with a digital slide presentation, said that many Governments believed that if they did not grant tax incentives, companies would choose instead to do business in a neighbouring country. Tax competition generated by incentives could therefore become a race to the bottom, where countries felt obliged to offer such incentives in order to be able to compete with their neighbours.

16. Studies showing the relative lengths of tax holidays in certain countries confirmed the existence of such competition. The Ministry of Finance of Granada, for example, had in one case waived corporate and property taxes and import duties for 25 years, resulting in an injection of $100 million of foreign direct investment into the country and the creation of 425 jobs, a disproportionately high cost per job. It had probably taken that measure in response to very aggressive tax competition in the hotel industry in neighbouring countries, but that was not unique to the region.

17. Countries sometimes reacted to tax competition by lowering their tax rates, which was possibly less distortionary than providing incentives to a single industry. Sparking competition among countries was part of the strategy private companies used, even if they had already decided to enter the market of a particular country. Only a coordinated response could avoid such a race to the bottom. However, some countries had realized that immense fiscal revenue could be foregone owing to tax incentives, leading them to reverse the trend by eliminating or simplifying some exonerations and increasing some tax rates.

18. Capital was now very mobile. Even if the host country waived taxes, a company would still have to pay tax in its home country, unless there was a tax agreement between the countries that would nullify the effect. An incentive in one country therefore did not signify complete exoneration from payment of taxes. Moreover, multinationals could shift taxable profits to jurisdictions with lower or no taxes. Tax incentives were thus less effective than 30 to 40 years earlier, when capital had been less mobile.

19. It was therefore necessary to monitor the benefits and costs of incentives, something which was not being done in many countries. While the main benefit of tax incentives was job creation, such incentives could also produce a displacement effect, with foreign direct investment (FDI) merely displacing domestic capital. The fact that FDI had been attracted did not mean that domestic companies would not have invested in that sector or industry. Also important was the net number of jobs created by the foreign company. Moreover, there could be a productivity benefit, as foreign companies came with know-how and the latest technologies that the host country might not have. That could have positive spillover effects for local industries, though that was not always the case.

20. Those benefits should, however, be able to compensate for net lost revenue and the indirect costs associated with them. Abuse was also a risk, as some entities that would normally be subject to the regular tax rate might claim to qualify for the lower tax rate in order to derive an unfair advantage from the system. Such incentives might have a stronger effect on the public sector that on the private sector. For a developing country, for example, revenue foregone in the public sector was not the same as revenue foregone in the private sector, because it was much more difficult for Governments to raise revenue, and the opportunity cost was also much higher, as that money could have been used to provide essential public goods in education, health or infrastructure.

21. Apart from tax incentives, there existed factors that motivated companies to choose a particular country for their investments, such as the presence of a natural resource or a strategic asset, the strategic location of a local market, or the opportunity to exploit cost advantages in production for the world market. Studies indicated that tax incentives were less effective than other such motivating factors, and that when groups of industries worked together, attracting FDI might be possible through changes in the level of taxation. However, if infrastructure was lacking or if there were other obstacles to business development, that might not be the case. In that case, tax incentives would represent a motivating factor of last resort in a particular country.

22. A recent study of evidence from 40 countries in Latin America, the Caribbean and Africa had concluded that FDI was not necessarily accompanied by an increase in total domestic investment, and that there was no complementarity between the two. Hence, foreign capital did not necessarily result in positive spillovers. Econometric studies by the International Monetary Fund indicated that without a favourable business environment and other factors necessary for productive investment, tax incentives per se would not provide positive results. Cumbersome regulations might hamper such an outcome, for example. Tax incentives were more effective when they had only one objective, such as increasing exports. They also had a more direct effect on exports than on jobs.

23. The indirect costs of tax incentives included distortions and the time and money required for companies to determine if they qualified for them. Companies might try to benefit from an incentive by cheating the system. Most distortionary effects complicated tax administration in a very lasting way. Tax incentives were legal in some cases, but were sometimes outside the tax law. In the latter case, they were much more discretionary, making it much more difficult for tax administrations to evaluate their effectiveness. However, discretionary tax incentives were popular with politicians who thought that an incentive to a particular company would be beneficial to their mandate, forgetting that subsequent Governments would suffer the consequences.

24. The role of governance in determining tax incentives was critical. Companies bargaining for incentives could end up opening a Pandora's box, especially if the incentives were being granted in ministries other than the Ministry of Finance, which would ultimately bear the brunt of the revenue loss. It was hard to eliminate incentives once they were in place. Since most Governments inherited tax incentives from previous administrations, there would be no dramatic reforms to eliminate them overnight. However, Governments could reduce the damage and start gradual reforms by increasing transparency.

25. Countries should try to evaluate and assess the benefits and costs of long-standing tax incentives and publish that information. Reflecting the costs of tax expenditures would be a good step towards transparency, making it possible to see how much it was costing to create additional jobs. To discourage the adoption of discretionary measures, officials must examine the tax law to determine whether incentives were necessary. They might discover, for example, that the corporate income tax rate had been very low when the incentive had been granted, but had subsequently increased. Tax administration should be tightened to avoid leakages. There should be a periodic study of how such tax incentives were used and of their costs and benefits.

26. The key policy questions to ask about tax incentives were whether they created an additional incentive or whether natural resources or assets would have attracted the investment in any case; how many positive externalities there would be; whether there would be cross-cutting benefits from the investment; whether there would be tax revenue if the company continued growing and whether there would be an additional tax revenue gain; whether the tax incentive would put existing or expected investment at a disadvantage; and whether giving an incentive to one company but not to others would discourage other businesses from coming.

27. It would also be important to determine whether it made sense to favour some sectors even if others might suffer; whether incentives could undermine the overall investment environment for the country by encouraging other investors to ask for such incentives, triggering a race to the bottom; whether tax incentives affected investment, and if not, how policymakers could manage the political economy drivers behind the tax incentives; what the obstacles were to doing so and whether those who benefited were too powerful for the Government to fight them, making it understandable that the tax incentive would continue, even if costs for taxpayers were high.

28. If the answers to those queries were in the affirmative and tax incentives had a positive impact on investment, policymakers must then ask under what conditions those incentives should be retained, so as to prevent a race to the bottom, and whether other changes in the tax system should be required. Perhaps simplification of the tax system to reduce the overall tax burden for companies should precede decisions on granting tax incentives. In some cases, the tax burden was very different from what statutory rates indicated, because there were, in addition to national rates, subnational rates and other fees, increasing the total burden on companies. Despite national reforms in some countries, legislation for subnational taxation had not been updated. Simplifying the tax system might

prove to be a far better way to attract investments than the quick fix of temporary tax incentives.

29. The goal in rationalizing tax incentives was to make the tax system more transparent by eliminating distortions and discretionary exemptions that created an unequal playing field. Misuse of tax incentives should be avoided. Countries should instead focus on improving the investment climate and developing a competitiveness strategy to attract new investment. The desired policy impact would be more and better quality investments in the formal sector and ultimately higher tax revenues.

30. There were some positive developments, however, as some developing countries had decided to eliminate all forms of tax exoneration. For example, Jamaica had recently eliminated some generous and discretionary tax incentives that had had very little impact on growth and had resulted in foregone revenue representing 6 per cent of its gross domestic product (GDP). The Jamaican economy had not been well served by the existing regime of sector-based incentives. The consensus was that such incentives might have been partly responsible for the country's lacklustre record of growth, possibly encouraging the misallocation of its limited economic resources.

31. As part of the reform process, an inventory of tax incentives should be compiled. In some countries, a good inventory was lacking because incentives were granted by different parts of the Government. It was important to determine who administered the incentives and how, and to measure costs, where possible, by calculating tax expenditures, conducting an investor motivator survey to see if investments were redundant, carrying out a cost-benefit analysis, and advise on policy to improve transparency.

32. Gradual reform of tax incentives could link investments more closely to those incentives by ensuring that benefits that gave away fiscal revenue were not granted until more was known about how much investment would be brought in as a result of those incentives. For example, some benefits could be related to accelerated depreciation or to a loss carry-forward. The goal was a more uniformly low tax rate over a broad base. Eliminating some forms of exoneration would result not only in more revenue but in a more level playing field. To improve transparency, incentives should be built into the tax laws to the extent possible.

33. Some other ways to attract investments that were not necessarily related to the tax code and tax law included providing an advantage to a desirable company by paying part of the costs of the land used by the company or alleviating any infrastructure challenges it might face. Other ways to improve the environment included investing in needed infrastructure or coordinating investment policy across the Government. Such support was transparent and would not linger in the tax administration indefinitely. Providing tax incentives were not the only solution for attracting investments, far from it.

34. **Ms. Jacinto-Henares** (Commissioner, Bureau for Internal Revenue, Philippines), lead discussant, said that the Government of the Philippines had been offering tax incentives for over 50 years, but its incentives regime had not been amended since 1987. The incentives it granted included fixed-term tax holidays and preferential tax rates and were based an annual list of priority industries for investment. The Philippine Economic Zone Authority had been created in 1995 to administer incentives within special economic zones.

35. The Government's incentives system was unwieldy, comprising over 200 special laws covering various industries and 14 investment promotion agencies. Bills were also being introduced to carve out economic zones at specific locations, notably the highly populated area around the Port of Manila, a proposal than ran counter to the intended purpose of incentives — to spread development outside urban areas — and demonstrated how politicians often chose to sacrifice tax revenue for the sake of their own popularity.

36. It was difficult to determine the amount of tax revenue surrendered owing to tax incentives, as the investment authority did not keep good records of the incentives granted. Based on estimates pertaining to 47 per cent of the total number of businesses that had been granted incentives in 2012, the revenue forgone was equivalent to about 1.5 per cent of the country's GDP, or about 9 per cent of total government expenditure. Had that tax been collected, it could have been used to address real investment constraints relating to infrastructure, good governance, education, skills training, health care and political and economic stability. There was also tension between the Department of Trade and the Department of Finance resulting from the fact that foreign direct investment

and tax revenue were both used as key indicators of government performance.

37. There was a general recognition amongst finance experts around the world that tax incentives were not good policy, and the World Trade Organization considered them to be subsidies and therefore opposed them. Nonetheless, while incentives ran counter to the essential principles of free trade, they had become so widespread that they would be difficult to eradicate.

38. Her country had been attempting to reform its tax incentive regime for 19 years. It had introduced two important bills which it hoped would be adopted in 2015. The first was a tax incentives management and transparency act, which would ensure that all tax incentives granted were included in the budget and that members of parliament and the investment promotion authority were aware of the amount of revenue that was being foregone. The second was a rationalization of fiscal incentives act, which would establish the kinds of incentives that could be offered and their potential beneficiaries.

*Interactive discussion*

39. **Mr. Rahman** (Bangladesh) asked how knowledge-sharing could be promoted among States in the Asia-Pacific region to help them move away from the culture of tax exemptions that had become such an important element of tax policy in less developed countries.

40. **Mr. Dzadzra** (Ghana) said that ministries of trade often argued that providing tax incentives did not amount to revenue reduction, because such incentives had no effect on actual government revenue, only on speculative future revenue. However, that emphasis on revenue did not take into account employment, technology and infrastructure considerations. A review of his country's free-zone regime had revealed that the majority of the foreign companies operating in free zones would have invested in Ghana even without the tax incentives that had been offered.

41. In light of that evidence, he would be interested to hear what the panellists would recommend as a minimum incentive to companies wishing to invest in a particular country and how States determine whether a particular company actually needed incentives. He also asked what States should do if their economy would not support immediate abolition of incentives, and whether lowering corporate taxes would be an acceptable solution for States that no longer wished to grant tax holidays.

42. **Mr. Verdi** (Executive Secretary, Inter-American Center of Tax Administrations) said that following the adoption by the Brazilian Government of the Fiscal Responsibility Act, which provided that any bills concerning incentives must include proposals to compensate for the loss of revenue, either by increasing taxes or reducing expenses, the number of requests from government departments for incentives to be granted had actually increased. The system of having government departments determine where the funds for their proposals would come from had worked well, in his experience.

43. **Ms. Jacinto-Henares** (Commissioner, Bureau for Internal Revenue, Philippines) said that the Bureau for Internal Revenue had wanted to propose a fiscal responsibility act but had felt that it would not have been approved by parliament, given the broad scope of such a law; it had therefore proposed an incentives rationalization act instead.

44. **Mr. Lara Yaffar** (Chair of the Committee of Experts on International Cooperation in Tax Matters) asked what the best practices would be to avoid the abuse of tax incentives, particularly in situations where companies had operations both inside and outside free zones. That was an important consideration, given that free zones were often intended not only to increase exports but also to promote development in specific regions. He would also appreciate suggestions on how to develop regions in order to attract investment.

45. **Mr. Sollund** (Member, Committee of Experts on International Cooperation in Tax Matters) said that he would be interested to hear the views of the panellists with respect to the argument that when a State that offered tax holidays and one that did not entered into a treaty, a refusal by the latter to agree to tax-bearing credits requested by the former constituted a failure to respect the tax policy of the other State.

46. **Ms. Perry** (Assistant Director, Fiscal Affairs Department, International Monetary Fund) said that many countries wished to abandon the culture of tax exemptions but were experiencing difficulties because the practice was so deeply entrenched. Knowledge-sharing between countries would be essential in that regard. States would also have come to a joint agreement, whether formally or informally, to make the necessary changes.

47. In many countries, including industrial countries, it was very difficult to have a clear picture of what tax incentives had been granted, because those incentives could be offered by a wide range of ministries and government agencies, not just the Ministry of Finance. Therefore, a key recommendation of the International Monetary Fund was that all tax incentives should be centralized within the Ministry of Finance, to ensure that appropriate records were kept.

48. The linkage between free zones and the rest of the economy was a significant problem, as it was difficult to control the use of free zones. There were other factors such as well-developed infrastructure that made free zones attractive to investors. It was generally unwise to eliminate taxes on workers, social security taxes or taxes on other elements of the domestic economy. With regard to tax-bearing credits in treaties, one very large country never granted such credits and did not appear to have suffered as a result. A State accusing another of not respecting its sovereignty by refusing to grant tax-bearing credits would be making a rather specious argument, as every country had the right to determine its own tax policy.

49. **Ms. Moreno-Dodson** (Lead Economist, Global Lead for Tax Policy, Macroeconomics and Fiscal Management, World Bank Group) said that countries such as Bangladesh should work with other countries in their regions to steer their fiscal policies away from tax exemptions. Neighbouring countries were often similar from the point of view of investors, making it difficult for them all to attract investments without a certain degree of policy harmonization. Cooperation had already begun in some regions, however, but it could be many years before the success of those efforts could be determined. Nevertheless, reform was essential and all States should help to improve international cooperation with regard to tax incentives.

50. Taking a narrow view of the tax system was not the best way to negotiate with potential investors. States should rather highlight the many other assets that they possessed or the improvements that they could make. Well-run tax administrations, efficient judicial systems able to quickly resolve tax disputes, value-added tax refunds, well-developed infrastructure, and a skilled and creative work force were more effective factors for attracting investors than tax exemptions.

51. Certain tax breaks were justified, such as those related to accelerated depreciation or loss carry-forward. However, there should be a shift towards paying out incentives ex post. One method that had been proposed was the tax credit account approach, whereby companies were able to access credits only after the investment had been made. That system created transparency, as the amount of tax credit granted to the taxpayer was clear. Moreover, the Government did not suffer significant financial losses if the company failed to generate profits.

52. The Brazilian system of associating the amount of revenue foregone with revenue gains or expenditure reduction was an interesting approach that would merit further consideration, although it could be difficult to implement in countries that lacked a transparent system for calculating revenue lost owing to incentives.

*Panel discussion: "Taxation of intellectual property rights and other intangibles: Issues for developing countries"*

53. **Mr. Kane** (Gerald L. Wallace Professor of Taxation, New York University), moderator, introducing the theme of the discussion, said that the concepts of source pricing and transfer pricing were essential in the taxation of intellectual property. Source pricing consisted in ascertaining the source of income in order to justify a source-based tax claim by a State. Developing countries relied heavily on such claims and agreed generally that manufacturing, natural resources, labour services and local sales operations were clearly subject to source-based tax.

54. Controversy arose over such claims, first, in resolving the source resident's primacy by determining, for example, the rate of tax that should be applied to a royalty payment flowing out of a source country and indisputably viewed as sourced to the payer; and second, in determining whether the source of an intangible asset was the jurisdiction in which the asset was developed or funded, in which the end product was consumed or in which the attendant risks arose. Multinational companies increasingly derived value from intangibles, introduced new intangibles and rendered supply chains more complex.

55. Tax planning must be taken into account in determining the price of an intangible. Commonly controlled entities had incentives to set their prices in or shift their tax base to jurisdictions with low tax

rates. Based on the arm's length standard usually applied in such cases, the entities must set their prices as if they were not commonly controlled. That standard, however, was hard to apply to intangibles, because contracts related to them were hard to enforce and were consequently avoided by multinational companies, which preferred to retain ownership of the intangibles, to which transfer rather than source pricing should therefore apply. The growing importance of intangibles made it difficult to locate comparable assets for the application of the arm's length standard. Under the current arrangements, developing countries risked not being able to tax revenue arising from intangibles within their borders.

56. **Mr. Cottani** (Office-Advisor on International Tax, Central Assessment Directorate, Italian Revenue Agency), panellist, said that businesses were increasingly using intangibles to justify charging more for their products and to reach many markets around the world. That reach, however, created a problem from a tax standpoint, because the legal ownership of intangibles could easily be changed from a high- to a low-tax jurisdiction. Through the Base Erosion and Profit Shifting project of the Organization for Economic Cooperation and Development (OECD), tax administrations had been asked to prevent companies from stripping countries of revenue. Intangibles were essential to the sustainability of tax systems in both developed and developing economies.

57. The Subcommittee on Article 9 (Associated Enterprises) of the Committee of Experts on International Cooperation in Tax Matters, which was mandated to examine article 9 of the United Nations Model Double Taxation Convention between Developed and Developing Countries, had concluded that there was no need for a definition of intangibles or for their identification in company balance sheets. Following the Base Erosion and Profit Shifting project, OECD had declared that the legal ownership of an intangible was only the starting point for an analysis of transfer pricing, because the profits arising from the intangible were taxed on the basis of the entities within the multinational group that had developed and commercially exploited it. What mattered was not whether a particular market feature in a country could be identified as an intangible but whether an operator would be interested in paying for it.

58. The risks associated with intangibles could contribute to an understanding of their ownership. In any transfer pricing analysis, the entities funding the intangible and thereby assuming the related risk must be identified so that the premium return could be attributed. The related issue of marketing intangibles was a sensitive one for developing countries. If a trademark was transferred to a low-tax jurisdiction in which an entity was responsible for marketing the product, it was questionable whether such an entity was entitled to share in the premium return even though it was not the legal owner.

59. The savings generated by relocating such functions as manufacturing from a high-cost to a low-cost territory were known as location savings. They reflected the difference between the costs of production in the two locations. For example, if the Italian owner of a clothing brand relocated its manufacturing activities to a jurisdiction in which labour was highly skilled and cheap, the profits associated with the relocation could not be considered to arise in the new country, because the brand know-how and the profits had not moved. The United Nations had reflected various national positions on location-specific advantages in its Practical Manual on Transfer Pricing for Developing Countries (ST/ESA/347). While certain countries, including China, considered that some location-specific advantages should be labelled as intangibles, others did not.

60. An example of an actual case involving intangible property was that of a multinational telecommunications group that had maintained one research and development centre in its own jurisdiction, a developing country, and another such centre, operated by a subsidiary, in a second developing country. As part of a business restructuring, the group had sold the rights to its patents and technology-related intangibles to a new entity in a third, low-tax jurisdiction. That entity had established a manufacturing facility and had entered into a research contract with the multinational group and the research and development subsidiary.

61. Because the new entity could bear the financial risk of but did not have the staff to perform the research and development, the multinational group had retained control of the staffing and budgets. The tax administrations concerned had needed to ascertain whether the intangible asset had been transferred and to apply an appropriate transfer pricing method. The transfer of the asset had justified a substantial shift of taxable income in the form of royalties from the

developing country in which the multinational was based to the low-tax jurisdiction of the new legal owner of the intangible.

62. **Ms. Bales** (Group Transfer Pricing Manager, SABMiller, United Kingdom), panellist, said that transfer pricing for SABMiller necessarily involved developing countries, which accounted for 70 per cent of the company's profits and 67 per cent of its 2014 tax contribution. Because most of its brands were owned locally and marketed nationally, the profits remained in the countries concerned. The company's international brands, 20 per cent of the total, were owned and developed by a separate team. In such cases, the country team received a licence to exploit the brand and retained most of the profits, paying the international team a royalty established on the basis of comparables.

63. The importance of intangibles had increased because the commercial world had become more demanding. Social and economic growth had resulted in greater consumer demand for more expensive brands. The desire of multinational companies to apply the skills of the marketing and sales specialists they had hired to develop such brands across many markets had resulted in more transfer pricing. Marketing specialists wanted Internet advertising campaigns to look and feel the same in different countries. Companies wanted their international trademark owners to bear the cost of the global and regional sponsorship campaigns required to respond to increasing competition. Consumer demand for product innovation had also risen. National and international trademark owners therefore needed to work harder to maintain brand equity.

64. In managing intangibles, multinational companies must consider comparables, profit splits, value creation, control, transparency, substance and reporting. The variety of pricing solutions adopted by multinationals was a challenge for tax authorities. The profit-split method was prohibitively expensive and might not meet the expectations of all concerned. The solution, which could involve the "safe harbour" rule, would be found only through cooperation between tax authorities and taxpayers. Transparency would improve if companies in default were prepared to explain themselves.

65. A group of African companies was seeking to develop, in conjunction with tax authorities in the region, training courses designed to help assess the taxation of intangibles. Multinational companies made every effort to assess the reputation and transparency of their brands. The results of all those efforts would become clear in future audits.

66. **Ms. Gosai** (Manager, Transfer Pricing, Large Business Centre, South African Revenue Service), panellist, said that discussion of the taxation of intellectual property often revolved around the use of comparables and the appropriate rate of tax. For the South African Revenue Service, however, those concerns were secondary to determining the value of the intellectual property and the ways in which it enhanced the business of the company. It was, however, often difficult to determine that value, as was the case with a South African company that had received a long-standing tax deduction on a royalty paid for sentimental reasons in respect of a loss-making product.

67. Developing countries lacked the skills and experience needed to address transfer pricing. The complexities of routine transactions were magnified in the area of intellectual property. In one case, a group had paid separate royalties for a product, its packaging and its brand name. Although the product had been developed in South Africa, the group had claimed that the recipe itself was of no value because it varied from country to country. The brand name had been owned by the first offshore company within the group to register it. The intellectual property had been held by several entities worldwide, rather than in a central hub, and the group had been unable to clarify the situation. When the group itself could not define the intellectual property or identify where it was held, it was extremely difficult for the tax authority to determine the applicable tax rate.

68. Under the apartheid regime, companies had been allowed to transfer the ownership of their intellectual property offshore to avoid sanctions and participate in international trade, provided that they returned the profits to South Africa. Since the end of the apartheid regime, however, many companies had maintained such property offshore but had withheld royalties worth billions of dollars from the Government, representing a considerable shortfall for the country.

69. Developing countries urgently needed to build the capacity and skills to address intellectual property ownership. Her Government was developing in-house

capability and liaising with experts to better understand intellectual property transactions in a global context. Taxpayers' withholding of information from tax administrations resulted in long, avoidable disputes. Companies had often refused to provide their valuation studies and contracts of sale, which were critical to the analysis of the tax applicable to their intellectual property.

70. **Mr. Kane** (Gerald L. Wallace Professor of Taxation, New York University) said that, if location-specific advantages were treated as intangible property, the resultant savings would be passed on to consumers. Countries would therefore be unable to agree on the value of such advantages and the risk of double taxation would arise. As property, the advantages could also be transferred away from the source jurisdiction, which would therefore not benefit in the long term. If such advantages were treated as comparability factors, however, in thick markets where the local production subsidiary could not negotiate to retain the savings, the developing country would not be able to tax the resulting rent.

71. The solution proposed following the Base Erosion and Profit Shifting project was that the profit should be taxed in the jurisdiction where the brand was held, as would be the case in the example of the Italian owner of a clothing brand that relocated its manufacturing activities to a jurisdiction in which labour was highly skilled and cheap. That example, however, was artificial since it involved only two countries and did not allow for the migration of the brand, which could result in the brand being treated as a residual and not taxed at all. With arm's-length transfer pricing, the brand would not benefit from the location-specific advantage because its value was not related to the savings.

72. Translating commercial language into tax concepts was difficult because the ownership of many intangible assets was fragmented in ways unfamiliar to tax experts. The value of such assets was driven by commercial factors not necessarily related to legal categories.

73. **Mr. Cottani** (Office-Advisor on International Tax, Central Assessment Directorate, Italian Revenue Agency) said that if location-specific advantages were viewed as assets, they could be controlled or owned, but it was difficult to imagine controlling specific market features, unless they were defined as comparability factors. If the activity relocated was highly competitive and performed by a third party rather than an affiliate, it was difficult to justify how the location-specific advantages could be identified as intangible assets.

74. In the globalized world, however, proximity to markets offering premium returns was essential. If the market was viewed as a natural resource, the location-specific advantage could be viewed as a concept justifying such a return. The categorization was less important than respect for the arm's length standard. If a third party was willing to pay to market the product in a given jurisdiction, what was relevant was not whether the location-specific advantage was an intangible asset or a comparability factor, but whether or not the profits should be attributed to the entity operating in the jurisdiction in question.

75. He wondered whether developing countries viewed the ownership of intangibles as a critical area, and whether the United Nations guidelines on the matter should be limited to principles or also include examples and guidance.

76. **Ms. Bales** (SABMiller) said that taxpayers would be able to provide more focused information if they had a list of the questions to which tax authorities needed answers during audits.

77. **Mr. Lara Yaffar** (Chair of the Committee of Experts on International Cooperation in Tax Matters), said that the United Nations guidelines should contain examples and guidance, particularly in relation to intangibles. Many developing-country subsidiaries of multinational companies had established monopolies and accumulated much know-how, but the profits from their activities went to the parent companies abroad. The ownership of intangible assets varied depending on the circumstances and the functional analysis carried out.

78. States also lacked information regarding comparables and did not have a full picture of the situation of multinationals. It was hard to understand why certain subsidiaries were located in Mexico, for example, when subsidiaries of the same multinationals in other countries were being rewarded for doing the same work. Such intangibles as goodwill were often not rewarded in developing countries.

79. **Mr. Verdi** (Executive Secretary of the Inter-American Center of Tax Administrations) said that the

ownership of intangibles was essential to the tax authorities of developing countries, for which intellectual property, royalties, patents and services posed challenges. He welcomed the conclusions of the Base Erosion and Profit Shifting project, because smaller countries lacked the information they needed to apply such methods as profit splitting. For example, if a company wanted to pay a royalty for a new software release, the tax administration concerned needed to know the cost of developing the software and the country's share of the company's global market, information that multinationals did not provide.

80. The country-by-country reporting of OECD promoted cooperative compliance and helped tax authorities understand what they were owed. Technical assistance contracts, for example, did not always include guarantees that the assistance had actually been provided. The United Nations guidance should cover not only royalties but also services.

*The meeting rose at 5.50 p.m.*